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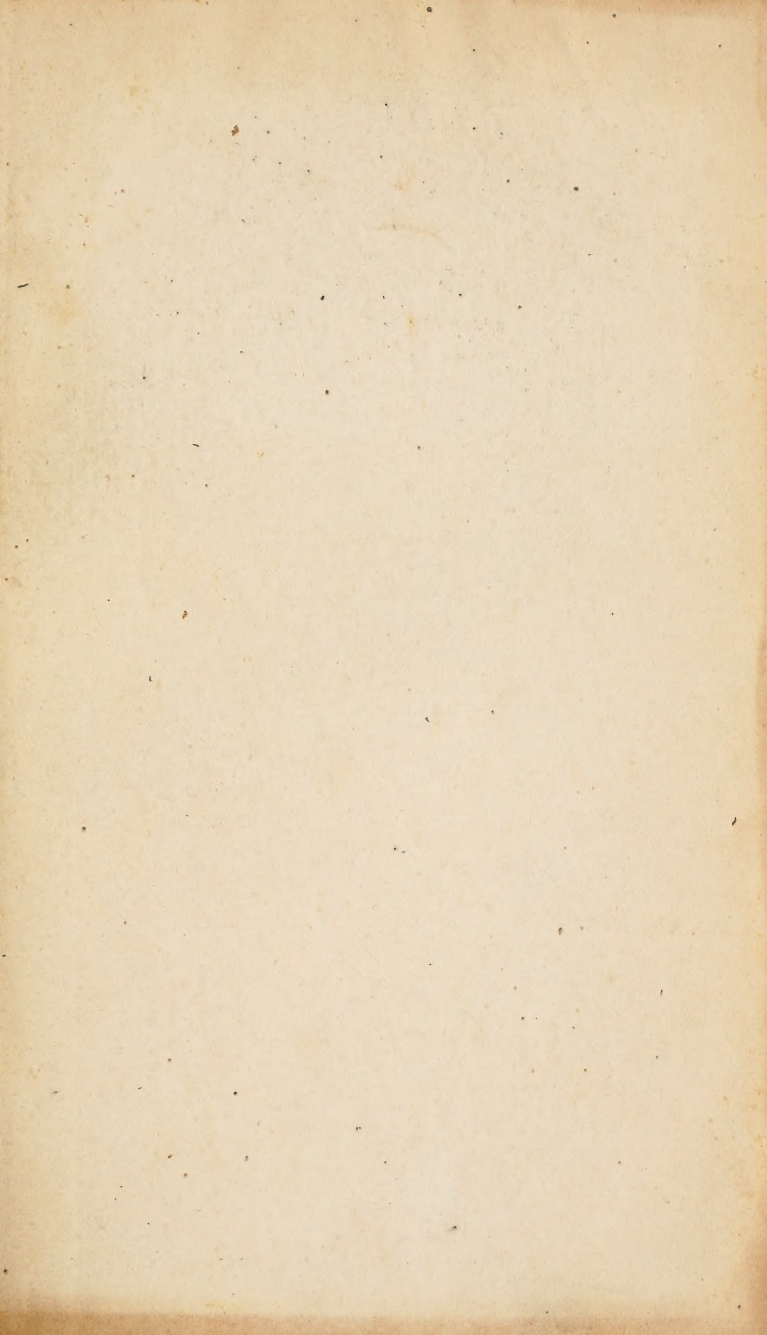
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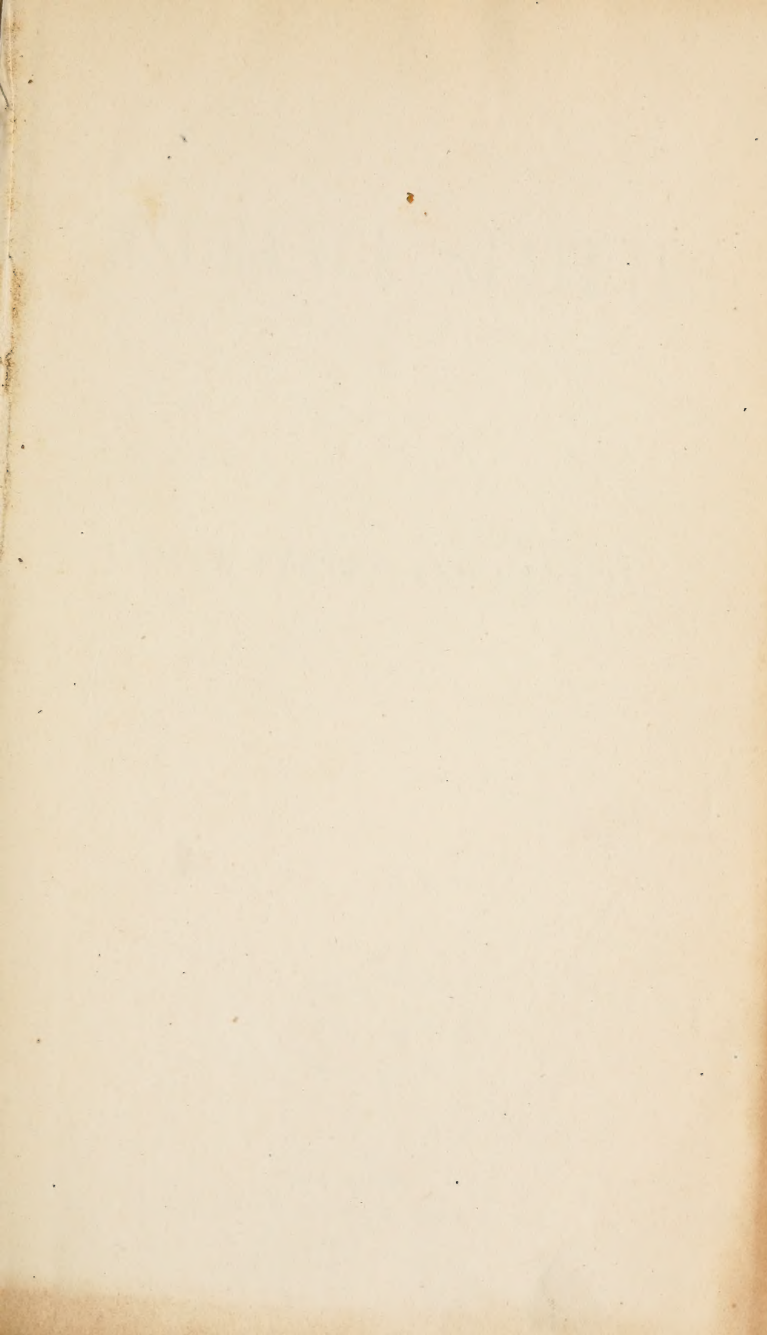
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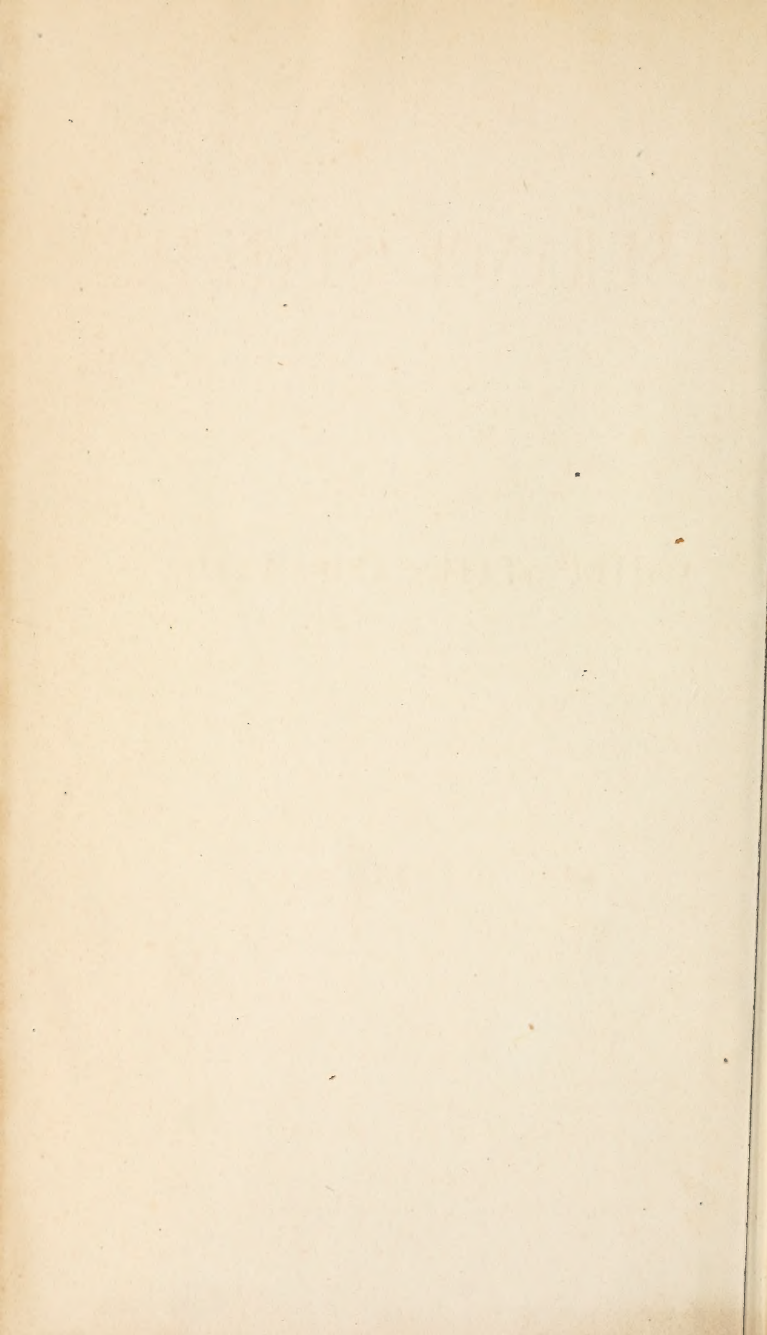












THE  
INSURANCE STATUTES

OF THE  
UNITED STATES AND CANADA.

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BY  
C. C. HINE,



NEW YORK:  
THE INSURANCE MONITOR.

1876.

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## PREFACE.

THE insurance laws of five years ago are almost obsolete, and in their stead new statutes have come upon the books in almost every State and Territory. The fingers of a single hand out-number the States in which insurance legislation has remained unchanged, while in a great many the most radical alterations have taken place. With a view to supply the insurance and legal professions with a standard and reliable edition of the Insurance Statutes of the United States and Canada, as they exist at the opening of the Centennial year, this volume has been prepared. It contains, in addition to the enactments of the several States regarding insurance directly, the laws concerning Arson and Incendiarism, Embezzlement, Fire Patrol organizations, Inquests for the origin of fires, and the general constitutional and statutory provisions bearing upon insurance corporations and cognate subjects; a grouping such as has not, in the knowledge of the editor, before been attempted.

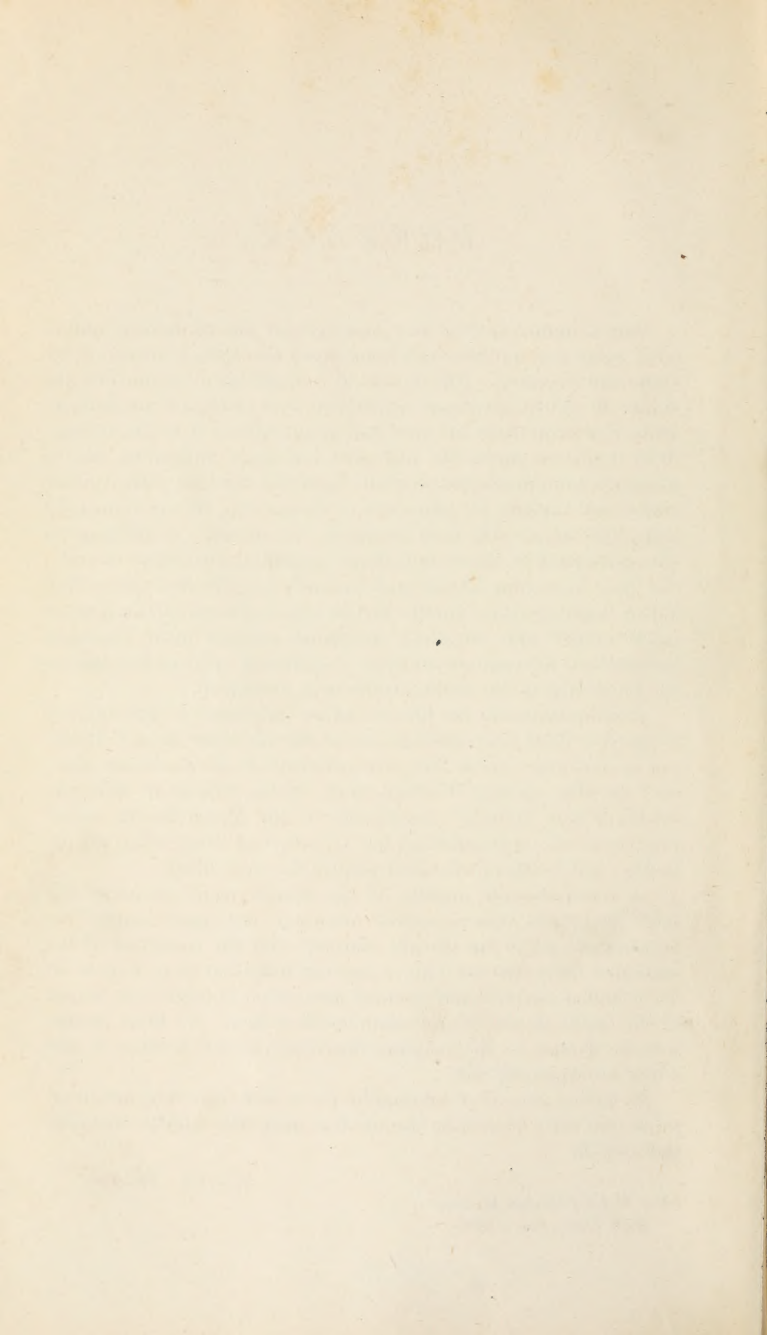
Acknowledgments are due for valued courtesies to the Library of the New York Law Institute, to the officials of the several States, and to numerous agents and correspondents of the *Insurance Monitor*; to Hon. George Wolford, from whose volume of 1870, the laborious and valuable compilation of the Massachusetts insurance laws—the only coherent one extant—has been taken almost bodily; and to others who have helped the work along.

In a considerable number of the States—about twenty of the more important ones—complete accuracy has been sought by securing the aid of the officials charged with the execution of the insurance laws, who have given personal attention to a revision of the compiled statutes, and granted permission to print their names at the heads of the several chapters so revised. To these gentlemen the thanks of the insurance fraternity, as well as those of the editor are especially due.

No known sources of information have been neglected, and great pains and labor have been bestowed to make the volume complete and reliable.

C. C. HINE.

Office of the *Insurance Monitor*,  
NEW YORK, Jan. 1, 1876.



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## INSURANCE STATUTES OF ALABAMA.

### CONSTITUTIONAL PROVISIONS CONCERNING CORPORATIONS.

**1.** No special or local law shall be enacted for the benefit of individuals or corporations in cases which are or can be provided for by a general law, or where the relief sought can be given by any court of this State. Nor shall the operation of any general law be suspended by the General Assembly for the benefit of any individual, corporation, or association. (*Art. 4, § 23.*)

**2.** Corporations may be formed under general laws, but shall not be created by special act, except for municipal, manufacturing, mining, immigration, industrial, and educational purposes, or for constructing canals, or improving navigable rivers and harbors of this State, and in cases where, in the judgment of the General Assembly, the objects of the corporation can not be attained under general laws. All general laws and special acts passed pursuant to this section may be altered, amended, or repealed. (*Art. 13, § 1.*)

**3.** The General Assembly shall not remit the forfeiture of the charter of any corporation now existing, or alter or amend the same, or pass any general or special law for the benefit of such corporation other than in execution of a trust created by law or by contract, except upon the condition that such corporation shall thereafter hold its charter subject to the provisions of this Constitution. (*Art. 13, § 3.*)

**4.** No foreign corporation shall do any business in this State without having at least one known place of business and an authorized agent or agents therein, and such corporation may be sued in any county where it does business, by service of process upon an agent anywhere in this State. (*Art. 13, § 4.*)

**5.** No corporation shall engage in any business other than that expressly authorized in its charter. (*Art. 13, § 5.*)

**6.** Dues from private corporations shall be secured by such means as may be prescribed by law, but in no case shall any stockholder be individually liable otherwise than for the unpaid stock owned by him or her. (*Art. 13, § 8.*)

**7.** No corporation shall issue preferred stock without the consent of the owners of two-thirds of the stock of said corporation. (*Art. 13, § 9.*)

**8.** The General Assembly shall have the power to alter, revoke, or amend any charter of incorporation now existing, and revokable at the ratification of this Constitution, or any that may hereafter be created, whenever in their opinion it may be injurious to the citizens of the State, in such manner, however, that no injustice shall be done to the incorporators. No law hereafter enacted shall create, renew, or extend the charter of more than one corporation. (*Art. 13, § 10.*)

**9.** All corporations shall have the right to sue, and shall be subject to be sued, in all courts, in like cases, as natural persons. (*Art. 13, § 12.*)

**10.** The term corporation, as used in this article, shall be construed to include all joint stock companies, or any associations having any of the powers or privileges of corporations, not possessed by individuals or partnerships. (*Art. 13, § 13.*)

## FIRE, INLAND, AND MARINE INSURANCE COMPANIES OF OTHER STATES AND COUNTRIES.

**11.** Before any insurance company not organized under or incorporated by the laws of this State shall transact any business of insurance in this State, through agents or otherwise, it shall pay into the treasury of the State the sum of one hundred dollars, and that amount thereafter in the month of January annually, for which the treasurer shall give his receipt and certify said payment to the auditor, but this shall not be in lieu of or affect the amount required to be paid by such company for school purposes. Such company shall also file with the Auditor of State a certified copy of the charter or deed of settlement of the company (and a statement of the company) on the 31st day of December next preceding the day on which it shall apply for permission to transact business in this State, exhibiting the following facts and items in the following form, namely:

*First.* The amount of the capital stock of the company and how much of the same has been paid up in cash.

*Second.* The property and assets held by the company, specifying:

1. The value and location of the real estate held by such company.

2. The amount of cash on hand and deposited in banks to the credit of the company.

3. The amount in the hands of agents and in course of transmission.

4. The amount of loans secured by bonds and mortgages or deeds of trust, constituting the first lien on real estate on which there shall be less than one year's interest due or owing, the location and value of each piece of such real estate, and the amount loaned on each piece.

5. The amount of loans on which interest shall not have been paid within one year previous to such statement and how secured.

6. The amount due the company on which judgments have been obtained and the cash value thereof.

7. The amount of stocks and bonds of this State, or of the United States, or of any other stocks or bonds owned by the company or corporation, specifying the amount, number of shares, and par and market value of each kind of stock or bonds.

8. The amount of bonds, mortgages or stocks held as collateral security for loans, with the amount loaned on each kind of stock or bond, and their par and market value.

9. The amount of interest actually due and unpaid.

10. The amount of interest accrued but not paid.

11. The amount of all other assets of every description, and of what composed.



*Third.* The liabilities of such company, specifying:

1. The amount of losses due and unpaid, and how much thereof is to citizens of this State.
2. The amount of claims for losses resisted by the company, and how much thereof is to citizens of this State.
3. The amount of claims for losses incurred during the year, including those claimed and not due, and those reported to the company upon which no action has been taken, and how much thereof is to citizens of this State.
4. The amount of dividends declared and due, and remaining unpaid.
5. The amount of dividends declared and not due.
6. The amount of money borrowed and security given for the payment thereof.
7. The amount required for reinsurance of outstanding policies on basis of fifty per cent. of premiums on unexpired risks.
8. The amount of all other claims against the company, and of what they consist.

*Fourth.* The income of the company during the year, specifying:

1. The amount of premiums received, designating the amount received in this State.
2. The amount of interest money received.
3. The amount of income received from all other sources and from what the same was derived.

*Fifth.* The expenditures during the preceding year, specifying:

1. The amount of losses paid during the year, stating how much thereof to citizens of this State.
2. The amount of returned premiums paid during the year.
3. The amount of dividends paid during the year.
4. The amount paid in taxes and commissions to agents.
5. The amount of all other expenditures and payments.

which statement shall be subscribed under oath by the President and Secretary, or other chief officers or managers of such company, and shall be renewed annually on the 10th day of January of each year or within thirty days thereafter, and the said Auditor of State is hereby authorized to propose such additional inquiries as may in his judgment be necessary to elicit a full exhibit of the business and standing of any insurance company as aforesaid, transacting or proposing to transact the business of insurance in this State. (*Laws of 1874--5, p. 142, §1.*)

**12.** It shall not be lawful for any insurance company not organized under or incorporated by the laws of this State, to transact any business of insurance in this State, through agents or otherwise, unless possessed of at least one hundred and fifty thousand dollars of actual cash capital, invested as required by the laws of the State where organized, nor until such company, in addition to the other requirements of this act, shall have filed with the Auditor of State a written instrument, duly signed and sealed, whereby it shall be declared that service of process (mesne or final) issued in any suit against such company therein pending from any court of record, State or Federal, sitting in this State, upon any agent of such company in this State, made in the manner directed by the laws of this State for the service of process upon the officers of domestic corporations, shall be as effectual for the purpose of such suit and to bind such company as service of similar process

would be if made strictly in the manner directed by the laws of the State or country under which such company was organized. (*Ibid*, p. 144, §2.)

**13.** Before any company, incorporated by or organized under the laws of any government foreign to the United States, shall transact any business of insurance in this State, it shall file with the Auditor the certificate of the Comptroller or other authorized functionary of some other State or of the United States, under his hand and official seal, that he holds on deposit and in trust for the benefit of all the policy-holders of such company in the United States securities in which it is authorized to invest its capital stock by the laws of the State in which such deposit is made, worth at least two hundred thousand dollars, and which shall be increased in case of any depreciation in their value; *Provided*, that companies organized under the laws of any foreign government depositing the amount of securities aforesaid with the Treasurer of this State, who shall receive the same in his official capacity, and producing and filing a certificate thereof in the manner provided by this section, shall be held to have complied with the requirements of this section, if such certificate shall state that the aforesaid deposit is for the benefit and protection of its policy-holders in the United States. (*Ibid*, p. 145, § 3.)

**14.** Whenever it shall appear to the satisfaction of the Auditor that the assets of any company are reduced more than twenty-five per cent. below the capital stock required by this act or its charter, after reserving fifty per cent. of the amount received for premiums on all risks which are unexpired, which are hereby declared unearned premiums, he shall revoke all authority to such company or its agents to do business in this State, and shall cause a notification thereof to be published in any one or more newspapers of general circulation, and copies thereof to be mailed to each agent in this State for said company, and the agents of said company are, after such notice, required to discontinue the issuing of any new policies or the renewal of any previously issued. (*Ibid*, § 4.)

**15.** Whenever any insurance company, as provided for in section one, shall have fully complied with all the requirements of this act, and the Auditor is satisfied that the affairs of such company are in sound condition, he shall issue a certificate of authority to such company authorizing it to transact the business of insurance in this State, itself or by such agents as it may appoint, until the 15th day of January then next ensuing, which certificate shall be renewed annually in January in each year, on compliance with the terms of this act, and subject to the conditions herein. (*Ibid*, § 5.)

**16.** It shall not be lawful for any person or persons to act as agent or solicit risks or make agreement for the delivery of policies of or in any way, directly or indirectly, to transact the business of insurance for and in behalf of any company not organized under or incorporated by the laws of this State, until such company shall have fully complied with all the requirements of this act, and until such company shall have received the certificate of authority from the Auditor authorizing it to transact the business of insurance in this State, and whoever shall directly or indirectly aid in transacting the insurance business for or make agreements for the delivery of the policies of any such company, without such company having first received such certificate of authority, or shall continue to act

as agent or otherwise for any such company, after the revocation by the Auditor of such certificate of authority, shall forfeit and pay to the State for each offense, the sum of five hundred dollars. (*Ibid*, p. 146, § 6.)

**17.** The term company used in this act, shall embrace and include every company, corporation, association or partnership organized for the purpose of transacting the business of insurance other than life or accident insurance. (*Ibid*, § 7.)

**18.** Whenever the existing or future laws of any State of the United States shall require of insurance companies incorporated by or organized under the laws of this State or of the agents thereof, any deposit of securities in such State for the protection of policyholders or otherwise, or any payment of taxes, fines, penalties, certificates of authority, license fees, or otherwise, greater than the amount required for similar purposes from similar companies of other States by the then existing laws of this State, then in every such case, all companies of such States establishing, or having heretofore established, an agency or agencies in this State, shall be and are hereby required to make the same deposit for a like purpose with the Treasurer of this State, and to pay into the Treasury of this State for taxes, fines, penalties, license fees, or otherwise, an amount equal to the amount of such charges and payments imposed by the laws of such State upon the companies of this State, and the agents thereof. (*Ibid*, § 8.)

**19.** All companies which may have received license to transact business in this State prior to the passage of this act shall not be obliged to renew application until such license shall expire, and all insurance companies complying with the provisions of this act, which may have made deposits of bonds under the provisions of former laws of this State, shall, upon the certificate of the Auditor to the Treasurer of the State that they have fully complied with the requirements of this act, be entitled to withdraw such deposits, and as to all such companies no further deposit of bonds shall be required, except as required in the eighth section of this act. (*Ibid*, p. 147, § 9.)

**20.** Every penalty provided for by this act shall be sued for and recovered in the name of the State of Alabama by the solicitor of the district in which such delinquency occurs, and when sued for and collected by him, shall be paid into the State Treasury, less twenty per cent., to be paid him for his services; and in case of the non-payment of such penalty, the party so offending shall be liable to imprisonment for a period not exceeding six months, in the discretion of any court having cognizance thereof. (*Ibid*, § 10.)

**21.** All laws and parts of laws conflicting with the provisions of this act are hereby repealed, but no company against whom any suit is now pending in this State for any claim heretofore accrued, shall be permitted to withdraw any deposit made by it (under existing laws) until such suit is determined and the judgment, if any, be fully paid. (*Ibid*, § 11.)

## TAXATION OF INSURANCE CORPORATIONS.

**22.** Taxes shall also be assessed by assessor in each county on and from the following subjects, and at the following rates, to wit :

On the gross amount of premiums (after deducting therefrom losses paid and all return premiums) received from their business in this State, during such tax year, by any life, fire, or marine insurance company, not chartered by this State and doing business herein, by agents or otherwise, at the rate of three per cent.; but from this amount, fifty dollars shall be applied to school purposes. Each agent, in this State, of any insurance company, organized under the laws of any other State or country, and doing business in this State, shall annually, in the month of January, return to the assessor of the county in which such agency is located, a sworn statement of the gross receipts of such agency for the year ending on the first day of that month, including all notes, accounts, and other things received or agreed upon as a compensation for insurance at such agency, with a statement of losses paid, and return premiums, and the company shall be charged with taxes at the place of such agency on the amount so returned; and the agent shall also be personally responsible for such taxes, and may retain in his hands a sufficient amount of the company's assets to pay the same, unless the same shall be paid by the company; and any agent or company refusing or failing to make returns within the times prescribed by law, or refusing to pay the amount assessed as tax, shall forever be debarred from doing business in this State.

On the gross amount of premiums received from their business in this State during such tax year, by any insurance company, chartered by or organized under any of the laws of this State, one per cent. on the gross amount of premiums, less the expenditures, losses paid, and return premiums, but from this amount fifty dollars shall be applied to public school purposes, except in the case of life insurance companies, chartered by or organized under any of the laws of this State, one per cent. on the gross amount of premiums, less the expenditures, reserved fund, returned premiums, and losses paid; but from this amount fifty dollars shall be applied to public school purposes.

Upon the gross commissions received by insurance agents, as such during the tax year, at the rate of three-fourths of one per cent. *Provided*, That the actual expenses of conducting such business may be deducted from such gross commissions before assessment, but no bad debt shall be deducted. (*Laws of 1874-5, p. 9, part of § 10.*)

**23.** The price of licenses shall be as follows :

For each agent of an insurance company, twenty-five dollars, and for each sub-agent ten dollars, for each company represented. The payment of this tax to the State, evidenced by the receipt of any probate judge, shall exempt from payment of this license in any other county. (*Ibid, p. 39, part of § 102.*)

**24.** It shall be the duty of the probate judge to furnish the tax assessor, on or before the first day of March in each year, a list of all agents for insurance companies in his county, with the names of the companies they represent. (*Ibid, p. 33, § 84.*)

**25.** The courts of county commissioners are hereby authorized to add to the price of licenses, for county purposes, such sums as they may designate, not to exceed fifty per cent., on the State licenses. (*Ibid, p. 41, § 104.*)

**26.** The several cities and incorporated towns of this State may respectively levy and collect from the banks and banking and



insurance companies, associations, and corporations, chartered or organized under the laws of this State, located and doing business within their respective limits, a tax upon the market value of the capital stock of each of such banks and banking and insurance companies, associations, and corporations, at the same rate per hundred dollars as may be levied and collected by the State for State revenue, and no more, to be paid by the said banks and banking and insurance companies, associations, and corporations, in full of all taxes, imposts, or assessments for municipal purposes upon the said capital and business and upon the shares of their said capital stock; *Provided*, Said tax shall not exceed sixty cents on the hundred dollars value of such capital stock, and said municipal corporation, and each of them, are hereby restrained from levying on or collecting from said companies, associations, or corporations, their capital, business, or shares, any larger or greater tax than that hereinbefore named, under any name or pretence of tax upon capital, profits, or income, or business whatever; *Provided*, That any real estate owned by said banks, banking and insurance companies, associations, or corporations shall be subject to the same rate of taxation as similar property otherwise owned or subject to taxation for municipal purposes; *And provided*, Said municipal corporations may demand and receive from each of said companies, associations, or corporations a license tax not exceeding one hundred dollars. (*Ibid*, p. 49, § 1.)

**27.** All taxes shall become due and payable on the first day of October of each year, and shall become delinquent on the thirty-first day of December in each year, except in cases where parties owing taxes are about to remove from the county. And on the first day of February there shall be added to, and collected with all delinquent taxes, a penalty of three per cent. on the amount of taxes not then paid, and a monthly increase of two per cent. thereafter; *Provided*, That on payment of his taxes during the month of October, the tax-payer shall be allowed a deduction of four per cent. on the amount of his taxes, three per cent. if paid during the month of November, and two per cent. if paid during the month of December. (*Ibid*, p. 13, § 15.)

### FIRE PATROL.

**28.** Boards of underwriters, companies, corporations, associations, underwriters, agents, or persons, shall have power to provide suitable rooms for the accommodation of a fire insurance patrol, and also to provide a patrol of men, and a competent person to act as superintendent, to discover and prevent fires, with suitable apparatus to save and preserve property or life at and after a fire; and the better to enable them so to act with promptness and efficiency, full power is given to such superintendent and such patrol to enter any building on fire, or which may be exposed to or in danger of taking fire from other burning buildings, subject to the control of the chief engineer or fire marshal of the city, and at once to proceed to protect and endeavor to save the property therein, and to remove such property, or any part thereof, from the ruins after a fire. (*Laws of 1874-5*, p. 148, § 1.)

**29.** In the month of January (or as soon after as conveniently practicable) of each year there shall be held a meeting of said



boards of underwriters, companies, corporations, associations, underwriters, agents, or persons doing a fire insurance business in the city, of which ten days previous notice shall be inserted in at least one daily newspaper, published in the city where said boards of underwriters, companies, corporations, associations, underwriters, agents, or persons are established or doing business, at which meeting each insurance company, corporation, association, underwriter, agent, person or persons doing a fire insurance business in the city, shall have the right to be represented at such meeting, and shall be entitled to one vote. A majority of the whole number so represented shall have power to decide upon the question of sustaining the fire insurance patrol, hereinbefore mentioned, and of fixing the maximum amount of expenses which shall be incurred therefor during the fiscal year next to ensue, which amount shall in no case exceed two per centum on the aggregate of fire premiums returned (*on cotton excepted*) as received, as provided in section three of this act. And the whole of such amount, or as much thereof as may be necessary, may be assessed upon all insurance companies, organizations, corporations, associations, and persons who assume risks and accept premiums for fire insurance in said city, as hereinbefore mentioned, in proportion to the several amounts of premiums returned (*on cotton excepted*) as received by each as hereinafter provided, and such assessment shall be collectable, by and in the name of said boards of underwriters, companies, corporations, associations, underwriters, agents, or persons in any court of law in the State of Alabama, having jurisdiction, in such manner and at such time or times as said boards of underwriters, companies, corporations, associations, underwriters, agents, or persons may determine. (*Ibid*, § 2.)

**30.** To provide for the payment of persons employed under the provisions of this act, and to maintain suitable rooms, and the apparatus for saving life and property contemplated, said boards of underwriters, companies, corporations, associations, underwriters, agents, or persons are empowered to require a statement to be furnished semi-annually by all insurance companies, corporations, associations, underwriters, agents, or persons, of the aggregate amount of fire premiums received (*on cotton excepted*) for insuring property in the city where said boards of underwriters, companies, corporations, associations, underwriters, agents, or persons are organized or established for and during the six months next preceding the first day of January, and the first day of July of each year, which statement shall be sworn to by the president or secretary of the corporation or association, or by the agent or person so acting and effecting such insurance in said city, and shall be handed to such person or officer as may be selected by said boards of underwriters, companies, corporations, associations, underwriters, agents, or persons, within such time as hereinafter provided in section four of this act. (*Ibid*, p. 149, § 3.)

**31.** It shall be lawful for such person or officer as may be selected by said boards of underwriters, companies, corporations, associations, underwriters, agents, or persons, within ten days after the first day of January and the first day of July, in each year, by written or printed demand, signed by him, to require from every insurance company, corporation, association, underwriter, agent, or person engaged in the business of fire insurance in the city where

said boards of underwriters, companies, corporations, associations, underwriters, agents, or persons are organized or established, the statement provided for in the last preceding section of this act. Such demand may be delivered personally at the office of such insurance company, corporation, association, underwriter, agent, or person, and every officer of such insurance company, corporation, or association, and every individual agent, underwriter, or person who shall, for fifteen days after such demand, neglect to render the account, shall forfeit fifty dollars, for the use of such boards of underwriters, companies, corporations, associations, underwriters, agents, and persons, and shall also forfeit, for its use, twenty-five dollars in addition for every day he shall so neglect after the expiration of the said fifteen days, and such penalty may be computed and recovered up to the time of trial for any suit for the recovery thereof, which penalty may be sued for and recovered, with costs of suit, in any court of law within the State of Alabama having jurisdiction, by and in the name of any of said boards of underwriters, companies, corporations, associations, underwriters, agents, or persons. (*Ibid*, § 4.)

### INSURANCE ON LIVES FOR THE BENEFIT OF MARRIED WOMEN AND CHILDREN.

**32.** Any married woman, by herself and in her name, or in the name of any third person, with his assent as her trustee, may cause to be insured for her sole use the life of her husband for any definite period, or for the term of his natural life, and in case of her surviving her husband the sum or net amount of insurance becoming due and payable by the terms of the insurance shall be payable to her, to and for her own use, free from the claims of the representatives of the husband or any of his creditors; *Provided*, however, that in case the husband shall have paid annual premiums above the amount of five hundred dollars (out of his own funds or property) for such insurance, then such exemption shall only apply to said insurance in the proportion of five hundred dollars to the amount of premiums paid for such insurance. (*Revised Code*, 1867, p. 672, § 3539, *H.*)

**33.** In case of the death of the wife before the decease of her husband, the amount of the insurance may be made payable after death to her children for their use, and to their guardian if under age. (*Ibid*, § 3539, *I.*)

### ARSON AND INCENDIARISM.

**34.** Any person who, in the night time willfully sets fire to or burns any dwelling house, steamboat, or vessel, in which there is at the time any human being; or any prison, house, or other building, which is occupied by a person lodged therein at night; or any house adjoining a dwelling house, in which dwelling house there is at the time a human being, is guilty of arson in the first degree, and must on conviction be punished, at the discretion of the jury, by death, or by imprisonment in the penitentiary, or hard labor for the county, for not less than ten years. (*Revised Code*, 1867, p. 705, § 3697.)

**35.** Any person who willfully sets fire to or burns any church.

meeting house, court house, town house, college, academy, jail, or other building erected for public use; or any banking house, warehouse, or cotton house, gin house, store, manufactory, or mill, which, with the property therein contained, is of the value of five hundred dollars or more; or any barn, stable, shop, or office of another person, within the curtilage of any dwelling house, or other building, by the burning whereof any building hereinbefore specified in this section is burned; or who willfully sets fire to or burns any inhabited dwelling house, or any steamboat or vessel, in which there is at the time no human being, is guilty of arson in the second degree, and must on conviction be punished by imprisonment in the penitentiary, or hard labor for the county, for not less than two, nor more than ten years. (*Ibid*, § 3698.)

**36.** Any person who shall willfully set fire to or burn any car, train of cars, car shed, cotton house, cotton pen containing cotton, or corn pen containing corn, shall be guilty of arson in the second degree, and must, on conviction, be punished by imprisonment in the penitentiary, or hard labor for the county, for not less than two, nor more than ten years. (*Laws of 1874-5*, p. 238, § 1.)

**37.** Any person who willfully sets fire to or burns any house, building, boat, or vessel, or any bridge, causeway, turnpike gate, or toll gate, by law erected or authorized, under such circumstances as do not constitute arson in the first or second degree, is guilty of arson in the third degree, and must, on conviction, be imprisoned in the county jail, or sentenced to hard labor for the county, for not more than twelve months; and may also be fined not more than two thousand dollars, at the discretion of the jury. (*Revised Code*, 1867, p. 705, § 3699.)

**38.** Any person who willfully burns a building, or any property which is at the time insured against fire, with intent to charge or injure the insurer; or who willfully burns, sinks, casts away, or otherwise destroys any ship or vessel with the intent to injure the owner of said boat or vessel, or of any property on board of the same, or the insurer of such boat, vessel, or property, must, on conviction, be punished by imprisonment in the county jail, or hard labor for the county, for not more than twelve months; and may also be fined not more than two thousand dollars, at the discretion of the jury. (*Ibid*, § 3700.)

#### FRAUD AND FALSE SWEARING.

**39.** Any person who, being the master, or an officer, or mariner of any vessel, makes, or causes to be made, or swears to any false affidavit or protest; or, being the owner, or other person concerned in such vessel, or in any property laden on board the same, procures any such false affidavit or protest to be made, or exhibits the same, with the intent to injure, deceive or defraud the insurer of such vessel or property, must, on conviction, be imprisoned in the county jail, or sentenced to hard labor for the county, for not more than one year; and may also be fined not more than two thousand dollars, at the discretion of the jury. (*Ibid*, § 3701.)

#### EMBEZZLEMENT.

**40.** Any officer, agent, or clerk of any incorporated company, or clerk, agent, servant or apprentice of any private person or per-

sons, who embezzles or fraudulently converts to his own use, or fraudently secretes with intent to convert to his own use, any money or property, which has come into his possession by virtue of his employment, must be punished, on conviction, as if he had stolen it. (*Revised Code*, 1867, p. 708, § 3717.)

#### GENERAL PROVISIONS RELATING TO CORPORATIONS.

**41.** On Organization of Corporations, see Laws of 1874-5, pp. 133, 135; on Consolidation of Private Corporations, see Laws of 1872-3, pp. 82, 83; on Dissolution of Private Corporations, see Laws of 1874-5, pp. 135, 137.

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# INSURANCE STATUTES OF ARKANSAS.

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*Revised by Hon. W. R. Miller, Auditor of State.*

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## CONSTITUTIONAL PROVISIONS CONCERNING CORPORATIONS.

**1.** All existing charters or grants of special or exclusive privileges, under which a *bona fide* organization shall not have taken place, and business been commenced in good faith, at the time of the adoption of this Constitution, shall thereafter have no validity. (*Art. 12, § 1.*)

**2.** The General Assembly shall pass no special act conferring corporate powers, except for charitable, educational, penal, or reformatory purposes, where the corporations created are to be and remain under the patronage and control of the State. (*Art. 12, § 2.*)

**3.** Corporations may be formed under general laws; which laws may, from time to time, be altered or repealed. The General Assembly shall have the power to alter, revoke or annul any charter of incorporation now existing and revocable at the adoption of this Constitution, or any that may hereafter be created, whenever, in their opinion, it may be injurious to the citizens of this State; in such manner, however, that no injustice shall be done to the Corporators. (*Art. 12, § 6.*)

**4.** No private corporation shall issue stocks or bonds, except for money or property actually received, or labor done; and all fictitious increase of stock or indebtedness shall be void; nor shall the stock or bonded indebtedness of any private corporation be increased, except in pursuance of general laws; nor until the consent of the person holding the larger amount, in value, of stocks, shall be obtained at a meeting held after notice given, for a period not less than sixty days, in pursuance of law. (*Art. 12, § 8.*)

**5.** Foreign corporations may be authorized to do business in this State, under such limitations and restrictions as may be prescribed by law; *Provided*, That no such corporation shall do any business in this State, except while it maintains therein one or more known places of business, and an authorized agent or agents in the same, upon whom process may be served; and, as to contracts made or business done in this State, they shall be subject to the same regulations, limitations, and liabilities as like corporations of this State: and shall exercise no other or greater powers, privileges, or franchises than may be exercised by like corporations of this State; nor shall they have power to condemn or appropriate private property. (*Art. 12, § 11.*)

**6.** There is hereby established a bureau in the office of the Auditor of State, to be known as "The Insurance Bureau," which shall be charged with the execution of the laws of the State in relation to insurance. *Act approved Feb. 27, 1875, § 1.*)

**7.** That the office of Insurance Commissioner be and the same

is hereby abolished, and that all the duties enjoined, and all the powers conferred on said Insurance Commissioner by the act of General Assembly of the State, entitled "An act to establish an Insurance Bureau" approved April 25, 1873, be and the same are hereby transferred to the State Auditor. (*Ibid*, § 2.)

8. The seal of the Auditor's office shall be the seal of the insurance department, and all reports required by said act of the General Assembly to be made to the Insurance Commissioner, shall be made to the Auditor, at the time, in like manner, and under the same penalties and restrictions; all charters, transcripts, annual statements or other documents, by said act required to be filed shall be filed in the office of the Auditor; and the Auditor is hereby required and empowered to enforce the same in like manner as the Insurance Commissioner was, by said act, empowered to do, and all publications, notices and reports shall be made and given, and generally, all the duties required of the Insurance Commissioner, under the provisions of said act of the General Assembly, shall be discharged by the Auditor in like manner and at the same time as therein provided; and he is hereby empowered to appoint and commission actuaries and examiners to issue, and, upon cause shown, to revoke licenses or permits to transact business of insurance, and, when legal cause exists, to suspend the business of any company of this State, or any company of another State, doing business in this State; to require free access to books and papers belonging to any such company or companies; to summon and examine persons relative thereto; and, generally, to do any and all things which the Insurance Commissioner was, by said act, empowered and required to do. (*Ibid*, § 3.)

9. All persons having in their possession any books, papers, records, securities, furniture, or other appurtenances to the insurance bureau belonging, shall, on demand, deliver the same to the custody of the Auditor. (*Ibid*, § 4.)

### AUDITOR—DUTIES AND FEES.

10. It shall be the duty of the Auditor:

*First.* To see that all the laws of this State, respecting insurance companies, are faithfully executed, to file in his office every charter of a company now or hereafter required by law to be filed, and upon application, to furnish a certified copy thereof.

*Second.* He shall, as soon as practicable in each year, calculate, or cause to be calculated, the net value, on the thirty-first day of December of the previous year, of all the policies in force on that day of every life insurance company doing business in this State that shall fail to furnish him, as hereinafter provided, a certificate of the Insurance Commissioner of the State by whose authority the company was organized, or in which it may elect to have its policies valued in case the company is chartered by the government of the United States, giving the net value of all policies in force in the company on the thirty-first day of December of the preceding year, which calculation of the net value of each policy shall be based upon the American Experience Table of Mortality, and four and one-half per cent. interest per annum; and the net value of a policy at any time shall be taken to be the single net premium which will at any time effect the insurance less the value at that time of the future

net premiums called for by the table of mortality and rate of interest designated above.

*Third.* In case it is found that any life insurance company doing business in this State has not on hand the net value of all its policies in force, after all other debts of the company and claims against it, exclusive of capital stock, have been provided for, it shall be the duty of the Auditor to publish the fact that the then existing condition of the company is below the standard of safety established by this State, and he shall require the company at once to cease doing new business, and he shall immediately institute proceedings to determine what further shall be done in the case; and it is hereby made the duty of the Auditor, after having determined as above the amount of the net value of all the policies in force, to see that the company has that amount in safe legal securities, after all its other debts and claims against it, exclusive of capital stock, have been provided for.

*Fourth.* He shall accept the valuations made by the Insurance Commissioner of the State under whose authority a life insurance company was organized, when such valuations have been properly made on sound and recognized principles and legal basis as above; *Provided*, The Company shall furnish to the Auditor of this State a certificate from the Insurance Commissioner of such State, setting forth the value, calculated on the data designated above, of all the policies in force in the company on the previous thirty-first day of December, and stating that after all the other debts of the company and claims against it at that time were provided for, the company had in safe securities an amount equal to the net value of all its policies in force; and that said company is entitled to do business in its own State. And every life insurance company doing business in this State during the year for which the statement is made that fails promptly to furnish the certificate aforesaid, shall be required to make full detailed lists of policies and securities to the Insurance Commissioner of this State, and shall be liable for all charges and expenses consequent upon not having furnished the said certificate.

*Fifth.* For every company doing fire insurance business in this State, he shall calculate the reinsurance reserve for unexpired fire risks, by taking fifty per centum of the premiums received on all unexpired risks that have less than one year to run, and a *pro rata* of all premiums received on risks that have more than one year to run; and in marine and inland insurance he shall charge all the premiums received on unexpired risks as a reinsurance reserve; *Provided*, That when the reinsurance reserve, calculated as above, is less than forty per centum of all the premiums received during the year, the reinsurance reserve in this case shall be the whole of the premiums received on all its unexpired risks.

*Sixth.* Having charged against a company the reinsurance reserve as above determined for fire, marine, and inland insurance, and adding thereto all other debts and claims against the company, he shall, in case he finds the capital stock of the company impaired to the extent of twenty per centum, give notice to the company to make good its whole capital stock within sixty days, and if this is not done he shall require the company to cease to do new business within this State, and shall thereupon, in case the company is organized under the authority of this State, immediately institute legal proceedings as required in this act, to determine what further shall be done in the case.

Any company receiving the aforesaid notice of the Auditor to make good its whole paid-up capital stock within sixty days, shall forthwith call upon its stockholders for such amounts as will make its paid-up capital equal to the minimum amount fixed by the charter of said company. And in case any stockholders of such company shall neglect or refuse to pay the amount so called for after notice personally given, or by advertisement, in such time and manner as the said Auditor shall approve, it shall be lawful for the said company to require the return of the original certificate of stock held by said stockholder, and in lieu thereof to issue new certificates for such number of shares as the said stockholder may be entitled to in the proportion that the ascertained value of the funds of the said company may be found to bear to the original capital of the said company, the value of such shares for which new certificates shall be issued to be ascertained under the direction of said Auditor, and the company paying for the fractional parts of shares; and it shall be lawful for the directors of such company to create new stock and dispose of the same, and to issue new certificates therefor to any amount sufficient to make up the original capital of the company. Whenever the capital stock of any joint-stock fire or marine insurance company of this State becomes impaired, the Auditor may, in his discretion, permit the said company to reduce its capital stock and the par value of its shares in proportion to the extent of impairment; *Provided*, That in fixing such reduced capital, no sum exceeding twenty-five thousand dollars shall be deducted from the assets, and property on hand, which shall be retained as surplus assets; *And provided*, That no part of such assets and property shall be distributed to the stockholders; *And provided further*, That no new business shall be done until the paid-up capital shall be equal to the amount required by law for the transaction of business.

*Seventh.* It shall be the duty of the Auditor, after he has notified a life insurance company to cease doing new business until the net value of its policies in force is equal to that called for by the standard of safety established by the State, at once to cause a rigid examination in regard to all affairs of such company. In case it shall appear that there is no fraud, or gross incompetency, or recklessness shown to exist in the management, he may, upon publishing the facts in the case, permit such company to continue in charge of its business for one year; *Provided*, There is in his opinion reason to believe that the company may eventually be able to re-establish the legal net value of all its policies in force. At the end of the year named above he may renew the permission, in case, on examination, he is satisfied that the company is likely to retrieve its affairs.

*Eighth.* Whenever the Auditor shall have reason to believe that any insurance company of this State is insolvent or fraudulently conducted, or that its assets are not sufficient for carrying on the business of the same, or during any non-compliance with the provisions of this act, he shall communicate the fact to the Attorney-General, whose duty it shall then become to apply to the supreme court or the circuit court, or in vacation to any of the judges thereof, for an order requiring said company to show cause why their business should not be closed; and the court or judge, as the case may be, shall thereupon hear the allegations and proofs of the respective parties, or appoint some suitable person as examiner, to perform such duty and report upon the facts to said court or judge.



If it appears to the satisfaction of said court or judge that such company is insolvent, or that the interests of the company so require, the said court or judge shall decree a dissolution of such corporation, and a distribution of its effects; but in case it shall appear to said court or judge that said corporation is able to comply with the provisions of this act, and that it is not insolvent, a decree shall be entered annulling the act of the Auditor in the premises and authorizing such company to resume business.

*Ninth.* The Auditor shall publish the result of his examination of the affairs of any company, whenever he deems it for the interest of the public so to do, in one or more papers of this State; suspend the entire business of any company of this State, and the business within this State of any other company during its non-compliance with any provision of this act, or whenever its assets appear to him insufficient to justify its continuance in business, by suspending or revoking the certificate granted by him; report to the Attorney-General any violation of law relating to insurance companies, their officers or agents; furnish to the companies the necessary blank forms for the statements required; preserve in a permanent form a full record of his proceedings, and concise statement of the condition of each company or agency visited or examined; at the request of any person, and on payment of the fee, to give certified copies of any record in his office when he deems it not prejudicial to the public interests; report annually to the legislature the receipts and expenses of his department for the year, his official acts, the condition of companies doing business in this State, and such other information as will exhibit the affairs of his department; adopt and renew, from time to time, with the approval of the Governor, a seal of office, an impression of which shall be filed in the office of the Secretary of State.

*Tenth.* The Auditor, for the purpose of examination authorized by this act, is hereby empowered, either in person or by one or more examiners by him commissioned in writing, to require free access to all books and papers within this State of any insurance company, or the agents thereof, doing business within this State; to summon and examine any person being within this State under oath, which he or any examiner may administer, relative to the affairs and condition of any company; for probable cause to visit at its principal office, wherever it may be, any insurance company not of a State in which the substantial provisions of this act shall be enacted, and doing business in this State, for the purpose of investigating its affairs and condition, and to revoke its certificate in this State if it does not permit an examination; to revoke or modify any certificate of authority when any conditions prescribed by law for granting it no longer exist. (*Ibid*, § 5.)

**11.** The Auditor may employ an actuary, to make the valuation of life policies, at the compensation of not exceeding three cents for each thousand dollars of insurance, to be paid by the company for which the valuation is made. (*Ibid*, § 6.)

**12.** There shall be paid by every company to which this act applies the following fees, which shall be received by the Auditor and accounted for in the same manner as other fees of his office are by law required to be accounted for: For filing certified copy of charter, fifteen dollars (\$15); for filing annual statement or certificate of other State commissioner in lieu thereof, ten dollars (\$10); for certificate of authority to transact business, two dollars (\$2); for



publication of annual statements or other publication required by the insurance laws of this State, or for official examination of companies in person or by attorney as provided by law, the actual expenses incurred. (*Ibid*, § 7.)

**13.** Within ninety days after the first Monday of May next, it shall be the duty of every insurance company of this State to file with the Auditor a certified copy of its charter, together with a certificate, stating the time of its organization, the location of its principal place of business, and the names and residence of its officers; and the Auditor shall proceed, as soon as practicable thereafter, to institute an examination into its affairs in accordance with the provisions of this act. And any company failing to comply with the requirements of this section, shall be subject to a fine of one hundred dollars for each month's delay. (*Ibid*, § 8.)

**14.** It shall be unlawful for any person, company, or corporation, to negotiate or solicit within this State any contract of insurance, or to effect an insurance or insurances, or pretend to effect the same, or to receive and transmit any offer or offers of insurance, or receive or deliver a policy or policies of insurance, or in any manner to aid in the transaction of the business of insurance, without complying fully with the provisions of this act. (*Ibid*, § 9.)

**15.** Every insurance company, including individuals, partnerships, joint-stock associations and corporations, conducting any branch of insurance business in this State, must transmit to the Auditor a statement of its condition and business for the year ending on the preceding thirty-first day of December, which statement shall be rendered on the first day of January following, or within sixty days thereafter, except that foreign companies shall transmit their statement of business, other than that done in the United States, prior to the following first day of July, which statements must be in form, and state the particulars required by the blanks prescribed by the Auditor. (*Ibid*, § 10.)

**16.** The Auditor may require, at any time, statements from any company doing business within this State, or from any of its officers or agents, on such points as he deems necessary and proper to elicit a full exhibit of its business and standing, all of which statements herein required must be verified by the signature and oath of the president or vice-president, with those of the secretary or actuary. No company having neglected to file a statement required of it within the time and manner prescribed, shall do any new business after notification by the Auditor while such neglect continues. And any company or association neglecting to make and transmit any statement required, shall forfeit one hundred dollars for each day's neglect. (*Ibid*, § 11.)

**17.** No person shall act as agent or solicitor in this State of any insurance company of another State or foreign government, in any manner whatever, relating to risks, until the provisions of this act have been complied with on the part of the company or association, and there has been granted to said company or association by the Auditor a certificate of authority showing that the company or association is authorized to transact business in this State. (*Ibid*, § 12.)

**18.** Every company doing insurance business in this State shall file with the Auditor, at the same time with its annual statement a sworn statement of its net receipts in this State for the year ending on the thirty-first day of December, after deducting losses

and commissions from its gross receipts, and shall pay into the State treasury, on or before the first of March, a tax of two and one-half per centum on such net receipts, and such tax shall be in lieu of all other taxes, State, county, or municipal, on such receipts; nor shall any city, town, or municipality impose any license, fee or privilege tax upon any company, or the agent of any company, for the privilege of transacting such business of insurance. (*Ibid*, § 13.)

**19.** No insurance company shall be authorized to transact business of insurance in this State until it shall have a *bona fide* subscribed capital of not less than one hundred thousand dollars (\$100,000), with a paid-up capital of not less than fifty thousand dollars (\$50,000). (*Ibid*, § 14.)

**20.** Companies to which certificates of authority are issued, as provided by section 12, shall, from time to time, certify to the Auditor the names of the agents appointed by them to solicit risks, issue policies, or receive applications in this State; and no such agent shall transact business until he has procured from the Auditor a certificate showing that the company has complied with the requirements of this act, and that the person named in said certificate has been duly appointed its agent. (*Ibid*, § 15.)

**21.** No insurance company, not of this State, nor its agent, shall do business in this State, until it has filed with the Auditor of this State a written stipulation, duly authenticated by the company, agreeing that any legal process affecting the company, served on the Auditor or the party designated by him, or the agent specified by said company to receive service of process for the company, shall have the same effect as if served personally on the company within this State. And if such company should cease to maintain such agent in this State, so designated, such process may thereafter be served on the Auditor; but so long as any liability of the stipulating company to any resident of this State continues, such stipulation can not be revoked or modified, except that a new one may be substituted, so as to require or dispense with service at the office of said company within this State, and that such service, according to this stipulation, shall be sufficient personal service on the company. The term "process" includes any writ, summons, subpoena, or order, whereby any action, suit or proceedings shall be commenced, or which shall be issued in or upon any action, suit or proceeding. (*Ibid*, § 16.)

**22.** Any person or persons, or corporation, receiving premiums or forwarding applications, or in any other way transacting business for any insurance company or association not of this State, without having received authority agreeably to the provisions of this act, shall forfeit and pay to the school fund of the State the sum of five hundred dollars for each month or fraction thereof, during which such illegal business was transacted, and any company not of this State, doing business without authority, shall forfeit a like sum for every month or fraction thereof, and be prohibited from doing business in this State until such fines are fully paid. (*Ibid*, § 17.)

**23.** The taxes provided in this act shall, in case of non-payment, after notice from the Auditor, be collected as taxes upon corporations are now collected by law. (*Ibid*, § 18.)

**24.** The Auditor is hereby empowered to institute suits and prosecutions, either by the Attorney-General or such other attorney as the Auditor may designate, for any violation of this act, and the Auditor shall be made a party to any proceeding instituted for the

purpose of closing up the affairs of any company, when the same shall not be in the name of the State. (*Ibid*, § 19.)

## INSURANCE OF LIVES FOR THE BENEFIT OF MARRIED WOMEN AND CHILDREN.

**25.** It shall be lawful for any married women, by herself and in her name, or in the name of any third person, with his assent, as her trustee, to cause to be insured for her sole use, the life of her husband for any definite period or for the term of his natural life; and in case of her surviving her husband the sum or net amount of the insurance becoming due and payable by the terms of the insurance, shall be payable to her and for her use; and in case of the death of the wife before the decease of her husband, the amount of said insurance may be made payable to his or to her children, for their use, and to their guardian for them, if they shall be under age, as shall be provided in the policy on insurance; and such sum or amount of insurance, so payable, shall be free from the claims of the representatives of the husband, or of any of his creditors; but such exception shall not apply where the amount of premium annually paid out of the funds or property of the husband shall exceed the sum of three hundred dollars. (*Laws of 1873, p. 382, § 1.*)

## ARSON AND INCENDIARISM.

**26.** Arson is the willful and malicious burning the house or other tenements of another person. (*Digest of Statutes, 1848, p. 334, § 1.*)

**27.** Every person who shall willfully and maliciously burn, or cause to be burned, any dwelling house or other house, although not herein specially named, shall be deemed guilty of arson. (*Ibid*, § 3.)

**28.** If any person shall wilfully and maliciously burn, or cause to be burned, any state-house, court-house, prison, church, bridge, or any other public building, although not herein specially named, such person, on conviction, shall be adjudged guilty of arson. (*Ibid*, § 3.)

**29.** If any person shall willfully and maliciously burn, or cause to be burned, any steamboat or other vessel, or any water-craft whatever, whether there be any person or goods on board or not, he shall be deemed guilty of arson. (*Ibid*, § 4.)

**30.** If any person shall willfully set fire to his own buildings or other property, with the intent to burn the property of any other person, and the property or building of any other person shall thereby be burned, such person shall be deemed guilty of arson. (*Ibid*, § 5.)

**31.** Every person convicted of arson shall be imprisoned in the jail and penitentiary house for a period not less than two nor more than ten years. (*Ibid*, § 6.)

**32.** If any person shall set fire to any building or tenement of another, with intent to burn the same, although such house or tenement may not be burned, he shall be deemed guilty of a misdemeanor, and on conviction, shall be fined not less than one hundred dollars, and be imprisoned not less than six months. (*Ibid*, § 7.)

## EMBEZZLEMENT.

**33.** If any clerk, apprentice, or servant, of any private person, or of any copartnership (except clerks, apprentices, and servants within the age of sixteen years), or any officer, agent, clerk, or servant of any incorporated company, or any person employed in any such capacity, shall embezzle, or convert to his own use, or shall take, make away with, or secrete, with intent to embezzle, or convert to his own use, without the consent of his master or employer, any money, goods, or rights in action, or any valuable security, or effects whatsoever belonging to any other person, which shall have come to his possession, or under his care or custody by virtue of such employment or office, he shall be deemed guilty of larceny, and on conviction, shall be punished as in cases of larceny. (*Digest of Statutes*, 1848, p. 339, § 3.)

**34.** For General Provisions relating to Corporations, see *Laws of 1868-9*, pp. 180, 196.

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# INSURANCE STATUTES OF CALIFORNIA.

*Revised by Hon. J. W. Foard, Insurance Commissioner.*

## CONSTITUTIONAL PROVISIONS CONCERNING CORPORATIONS.

**1.** Corporations may be formed under general laws, but shall not be created by special act, except for municipal purposes. All general laws and special acts passed pursuant to this section may be altered from time to time, or repealed. (*Art. 4, § 31.*)

**2.** Dues from corporations shall be secured by such individual liability of the corporators, and other means, as may be prescribed by law. (*Art. 4, § 32.*)

**3.** The term corporations, as used in this article, shall be construed to include all associations and joint stock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships. And all corporations shall have the right to sue, and shall be subject to be sued in all courts, in like cases as natural persons. (*Art. 4, § 33.*)

**4.** Each stockholder of a corporation, or joint stock association, shall be individually and personally liable for his proportion of all its debts and liabilities. (*Art. 4, § 36.*)

## INSURANCE CORPORATIONS—GENERAL PROVISIONS.

**5.** After the Secretary of State issues the certificate of incorporation, as provided in Article I., Chapter I., Title I., of this part, the directors named in the articles of incorporation must proceed in the manner specified, or in their by-laws, or if none, then in such manner as they may by order adopt, to open books of subscription to the capital stock then unsubscribed, and to secure subscriptions to the full amount of the fixed capital; to levy assessments and installments thereon, and to collect the same, as in Chapter II. of Title I. provided. (*Civil Code, 1872, p. 92, § 414.*)

**6.** No insurance corporation must purchase, hold, or convey real estate, except as hereinafter set forth, to wit:

1. Such as is requisite for its accommodation in the convenient transaction of its business, not exceeding in value one hundred and fifty thousand dollars.

2. Such as is conveyed to it, or to any person for it, by way of mortgage or in trust, or otherwise, to secure or provide for the payment of loans previously contracted, or for moneys due.

3. Such as is purchased at sales upon deeds of trust or judgments obtained or made for such loans or debts.

4. Such as is conveyed to it in satisfaction of debts previously contracted in the course of its dealings.

All such real estate so acquired, which is not requisite for the accommodation of such corporation in the transaction of its business, must be sold and disposed of within five years after such corporation acquires title to the same. No such real estate must be held for a longer period than five years, unless the corporation first procures a certificate from the Insurance Commissioner that the interest of the corporation will suffer materially by a forced sale of such real estate, in which event the time for the sale may be extended to such time as the Insurance Commissioner directs in the certificate. (*Ibid*, § 415.)

7. All policies made by insurance corporations must be subscribed by the president or vice-president, or in case of the death, absence, or disability of those officers, by any two of the directors, and countersigned by the secretary of the corporation. All such policies are as binding and obligatory upon the corporation as if executed over the corporate seal. (*Ibid*, p. 93, § 416.)

8. The directors of every insurance corporation, at such times as their by-laws provide, must make, declare, and pay to the stockholders dividends of so much of the net profits of the corporate business and interest on capital invested as to them appears advisable; but the moneys received and notes taken for premium on risks which are undetermined and outstanding at the time of making the dividend must not be treated as profits, nor divided, except as provided in Chapter II. of this Title. (*Ibid*, § 417.)

9. If any insurance corporation is under liabilities for losses to an amount equal to its capital stock, and the president or directors, after knowing the same, make any new or further insurance, the estates of all who make such insurance, or assent thereto, are severally and jointly liable for the amount of any loss which takes place under such insurance. (*Ibid*, p. 94, § 418.)

10. No company, corporation, or association, except mutual life, health, and accident corporations, shall hereafter be formed or organized under the laws of this State for the transaction of business in any kind of insurance, except on live stock, without a subscribed capital equal to at least two hundred thousand dollars in United States gold coin; twenty-five per cent. whereof must be paid in previous to the issuance of any policy, and the residue by monthly or quarterly installments, within twelve months from the day of filing the certificate of incorporation. No individual, or person, or corporation, organized under the laws of any other State or country as a stock company, must transact any kind of insurance business in this State, except on live stock, unless such person or corporation has a paid up capital stock equal to at least two hundred thousand dollars in United States gold coin, and has available cash assets, exclusive of stock notes, equal to two hundred thousand dollars in such gold coin over and above all liabilities for losses, reported expenses, taxes, and reinsurance of all outstanding risks, as provided in section six hundred and two, of the Political Code of this State. Nor must any individual or person, as agent of any person or corporation, organized under the laws of any other State or country as a mutual insurance company, transact any kind of insurance business in this State, except on live stock, unless such person or corporation possess available cash assets equal to at least two hundred thousand dollars in United States gold coin, over and above all liabilities for losses reported, expenses, taxes, and reinsurance of all outstanding risks, as provided in section six hundred



and two of the Political Code of this State. (*Ibid*, § 419, *as amended* )

## FIRE AND MARINE INSURANCE CORPORATIONS.

**11.** The entire capital stock of every fire or marine insurance corporation must be paid up in cash within twelve months from the filing of the articles of incorporation, and no policy of insurance must be issued or risk taken until twenty-five per cent. of the whole capital stock is paid up. (*Ibid*, p. 95, § 424.)

**12.** The president and a majority of the directors must, within thirty days after the payment of the twenty-five per cent. of the capital stock, and also within thirty days after the payment of the last installment or assessment of the capital stock limited and fixed, prepare, subscribe, and swear to a certificate setting forth the amount of the fixed capital and the amount thereof paid up at the times respectively in this section named, and file the same in the office of the County Clerk of the county where the principal place of business of the corporation is located, and a duplicate thereof, similarly executed, with the Insurance Commissioner. (*Ibid*, § 425.)

**13.** Every corporation formed for fire or marine insurance, or both, may make insurance on all insurable interests within the scope of its articles of incorporation, and may cause itself to be reinsured. (*Ibid*, § 426.)

**14.** Every fire and marine insurance corporation may, by its board of directors, or as the by-laws direct, invest its funds in loans upon real or personal property, or in the purchase of stocks, bonds, or other securities, but no loan must be made on the stock of the corporation, or on the notes or obligations of any of its stockholders. (*Ibid*, § 427, *as amended*.)

**15.** Fire and marine insurance corporations must never take on any one risk, whether it is a marine insurance or an insurance against fire, a sum exceeding one-tenth part of their capital actually paid in, and intact at the time of taking such risk, without reinsuring the excess above one-tenth. (*Ibid*, § 428, *as amended*.)

**16.** No corporation transacting fire or marine insurance business under the laws of this State must make any dividends, except from profits remaining on hand after retaining, unimpaired:

1. The entire subscribed capital stock;
2. All the premiums received or receivable on outstanding marine or inland risks, except marine time risks;
3. A fund equal to one-half of the amount of all premiums on fire risks and marine time risks not terminated at the time of making such dividend;
4. A sum sufficient to pay all losses reported or in course of settlement, and all liabilities for expenses and taxes. (*Ibid*, p. 96, § 429.)

**17.** No fire or marine insurance corporation, with a subscribed capital of less than two hundred thousand dollars, must declare any dividends, except from profits remaining on hand after reserving:

1. A sum necessary to form, with the subscribed capital stock, the aggregate sum of two hundred thousand dollars;
2. All the premiums received or receivable on outstanding marine or inland risks, except marine time risks;
3. A fund equal to one-half the amount of all premiums on

fire risks and marine time risks not terminated at the time of making such dividend;

4. A sum sufficient to pay all losses reported or in course of settlement, and all liabilities for expenses and taxes. (*Ibid*, § 430.)

### MUTUAL LIFE, HEALTH, AND ACCIDENT INSURANCE CORPORATIONS.

**18.** Every corporation formed for the purpose of mutual insurance on the lives or health of persons, or against accidents to persons for life or any fixed period of time, or to purchase and sell annuities, must have a capital stock of not less than one hundred thousand dollars. It must not make any insurance upon any risk or transact any other business as a corporation until its capital stock is fully paid up in cash, nor until it has also obtained a fund, to be known as a "Guarantee Fund," of not less than two hundred and fifty thousand dollars, as is hereinafter provided. If more than the requisite amount is subscribed the stock must be distributed pro rata among the subscribers. Any subscription may be rejected by the Board of Directors or the committee thereof, either as to the whole or any part thereof, and must be, so far as rejected, without effect. (*Ibid*, p. 97, § 437.)

**19.** The Guarantee Fund mentioned in the preceding section must consist of the promissory notes of solvent parties, approved by the Board of Directors and by each other, payable to the corporation or its order, and at such times, in such modes, and in such sums, with or without interest, and conformable in all other respects to such requirements as the Board of Directors prescribe; but the amount of the notes given by any one person must not exceed in the whole the sum of five thousand dollars, exclusive of interest. Such notes must be payable absolutely and at the option of the corporation; they must be negotiable, and may be indorsed and transferred, or converted into cash, or otherwise dealt with by the corporation at its discretion, without reference to any contingency of losses or expenses. Such notes, or the proceeds thereof, must remain with the corporation as a fund for the better security of persons dealing with it, and constitute the assets of the corporation, liable for all its debts, obligations, and indebtedness next after its assets from premiums and other sources, exclusive of capital stock, until the net earnings, over and above its expenses, losses, and liabilities, shall have accumulated in cash, or securities in which the net earnings have been invested, to a sum which, with the capital stock, is equal to the aggregate of the original amounts of the Guarantee Fund and of the capital stock. (*Ibid*, § 438.)

**20.** The sum accumulated as provided in the preceding section, together with the capital stock, shall become and remain the fixed capital of the corporation, not subject to division among the stockholders or parties dealing with it, or to be expended in any manner otherwise than may be required in payment of the corporation's debts and actual expenses, until the business of the corporation is closed, its debts paid, and its outstanding policies and obligations of every kind canceled or provided for; and if from any cause a deficiency at any time occurs in such fixed capital, no further division of profits must take place until such deficiency has been made up. (*Ibid*, p. 98, § 439.)

**21.** Whenever the fixed capital of the corporation is obtained as hereinbefore provided, the President of the corporation and its Actuary, or its Secretary, if there is no Actuary, must make a declaration in writing, sworn to before some Notary Public, of the amount of such fixed capital, and of the particular kinds of property composing the same, with the nature and amount of each kind, which must be filed with the original articles of incorporation, and a copy, certified by the County Clerk, must be published for at least four successive weeks, in a newspaper published in the county where the principal business of the corporation is situated. Upon the filing of such declaration the Guarantee Fund is discharged of its obligations, and all notes of the Fund remaining in the control of the corporation, and not affected by any lien thereon, or claim of that nature, must be surrendered by it to the makers thereof, respectively, or other parties entitled to receive the same. (*Ibid*, p. 99, § 440.)

**22.** Until the Guarantee Fund is discharged from its obligations, as provided in the preceding section, no note must be withdrawn from the Fund, unless another note of equal solvency is substituted therefor, with the approval of the Board of Directors. The corporation must allow a commission, not exceeding five per cent. per annum, on all such guarantee notes while outstanding, and also interest on all moneys paid on such notes by the parties liable thereon, at the rate of twelve per cent. per annum, payable half yearly until repaid by the corporation, unless the current rate of interest is different from this amount, in which case the rate payable may, from time to time, at intervals of not less than one year, be increased or reduced by the Board of Directors, so as to conform to the current rate. (*Ibid*, § 441, as amended.)

**23.** After the filing of the declaration of the fixed capital, as in this Article provided, the holders of policies of life insurance for the term of life on which the premiums are not in default may vote at the election of Directors, and have one vote for each one thousand dollars insured by their policies, respectively. (*Ibid*, p. 100, § 442.)

**24.** The number of Directors specified in the articles of incorporation may be altered from time to time during the existence of the corporation by resolution, at the annual meeting of a majority of those entitled to vote at the election of Directors, but the number must never be reduced below five. (*Ibid*, § 443.)

**25.** Life, health, and accident insurance corporations may invest their capital stock as follows:

1. In loans upon unincumbered and improved real property within the State of California, which shall be worth at the time of the investment at least forty per cent. more than the sum loaned.

2. In the purchase of or loans upon interest-bearing bonds and other securities of the United States and of the State of California.

3. In the purchase of or loans upon interest-bearing bonds of any of the other States of the Union, or of any county, or incorporated city, or city and county, in the State of California.

4. In the purchase of loans upon any stocks of corporations formed under the laws of this State, except of mining corporations, which shall have, at the time of the investment, a value in the City and County of San Francisco of not less than sixty per cent. of their par value, and shall be rated as first-class securities; but no loans shall be made on any securities specified in

sub-divisions three and four of this section, in any amount beyond sixty per cent. of the market value of the securities, nor shall any loan be made on the stock of the corporation, or notes or other obligations of its corporators. (*Ibid*, § 444, as amended.)

**26.** The corporation may, by its by-laws, limit the number of shares which may be held by any one person, and make such other provisions for the protection of the stockholders and the better security of those dealing with it as to a majority of the stockholders may seem proper, not inconsistent with the provisions of this title or part. (*Ibid*, p. 101, § 445.)

**27.** All premiums must be payable wholly in cash, or one half or a greater proportion in cash, and the remainder in promissory notes bearing interest, as may be provided for by the by-laws. Agreements and policies of insurance made by the corporation may be upon the basis of full or partial participation in the profits, or without any participation therein, as may be provided by the by-laws and agreed between the parties. (*Ibid*, § 446.)

**28.** Every life insurance corporation organized under the laws of this State must, on or before the first day of February of each year, furnish the Insurance Commissioner the necessary data for determining the valuation of all its policies outstanding on the thirty-first day of December then next preceding. And every life insurance company organized under the laws of any other State or country, and doing business in this State, must, upon the written requisition of the Commissioner, furnish him, at such time as he may designate, the requisite data for determining the valuation of all its policies then outstanding; such valuations must be based upon the rate of mortality established by the American Experience Life Table, and interest at four and one-half per cent. per annum. For the purpose of making the valuations, the Insurance Commissioner is authorized to employ a competent actuary, whose compensation for such valuations shall be three cents for each thousand dollars of insurance; to be paid by the respective companies whose policies are thus valued. (*Ibid*, § 447, as amended.)

**29.** No stamp is required nor stamp duty exacted on any contract of insurance when such contract insures against accident which may result in injury or death. (*Ibid*, § 448.)

**30.** When the certificate of the Insurance Commissioner of this State, of the valuation of the policies of a life insurance company, as provided in section four hundred and forty-seven of the Civil Code of this State, issued to any company organized under the laws of this State, shall not be accepted by the insurance authorities of any other State, in lieu of a valuation of the same, by the insurance officer of such other State, then every company organized under the laws of such other State, doing business in this State, shall be required to have a separate valuation of its policies made under the authority of the Insurance Commissioner of this State, as provided in section four hundred and forty-seven of the Civil Code. (*Amendments to Civil Code*, 1873-4, p. 271, § 449.)

**31.** Every policy of insurance upon life issued hereafter within the limits of the State of California, whether by a person or a corporation, organized under the laws of this State, or under those of any other State or country, or by the agent of such person or corporation, must contain written evidence that it was issued in this State. And any such policy issued in this State which shall not



contain such written evidence is, at the option of the holder, null and void. And the person or corporation issuing such policy, without the evidence hereinbefore required, shall forfeit to the people of the State of California, for each and every policy so issued, the sum of one hundred dollars in United States gold coin, to be collected by the Insurance Commissioner as provided by section five hundred and ninety-eight of the Political Code. (*Ibid*, § 450.)

**32.** Whenever, during the life of any policy of insurance hereafter issued in this State, such policy shall be, by the legal holder thereof, presented to the person or corporation issuing the same, or to the agent of such person or corporation, for payment and cancellation, such person or corporation must, within sixty days after such presentation and demand of payment, pay to the holder of such policy, in like currency to that of the policy, a sum equal to seventy-five per cent. of the then present value of such policy, as ascertained and determined in accordance with the provision of section four hundred and forty-seven of the Civil Code, and such payment shall be a full and complete liquidation of such policy. (*Ibid*, § 451.)

## INSURANCE IN GENERAL.

### DEFINITION OF INSURANCE.

**33.** Insurance is a contract whereby one undertakes to indemnify another against loss, damage, or liability, arising from an unknown or contingent event. (*Ibid*, p. 418, § 2527.)

### WHAT MAY BE INSURED.

**34.** Any contingent or unknown event, whether past or future, which may damnify a person having an insurable interest, or create a liability against him, may be insured against, subject to the provisions of this Chapter. (*Ibid*, § 2531.)

**35.** The preceding section does not authorize an insurance for or against the drawing of any lottery, or for or against any chance or ticket in a lottery drawing a prize, (*Ibid*, § 2532.)

**36.** The most usual kinds of insurance are :

1. Marine Insurance ;
2. Fire Insurance ;
3. Life Insurance ;
4. Health Insurance ; and
5. Accident Insurance. (*Ibid*, § 2533.)

**37.** All kinds of insurance are subject to the provisions of this Chapter. (*Ibid*, § 2534.)

### PARTIES TO THE CONTRACT.

**38.** The person who undertakes to indemnify another by a contract of insurance is called the insurer, and the person indemnified is called the insured. (*Ibid*, p. 419, § 2538.)

**39.** Any one capable of making a contract may be an insurer, subject to the restrictions imposed by special statutes upon foreign corporations, non-residents, and others. (*Ibid*, § 2539.)

**40.** Any one except a public enemy may be insured. (*Ibid*, § 2540.)



**41.** Where a mortgager of property effects insurance in his own name, providing that the loss shall be payable to the mortgagee, or assigns a policy of insurance to the mortgagee, the insurance is deemed to be upon the interest of the mortgagor, who does not cease to be a party to the original contract, and any act of his which would otherwise avoid the insurance will have the same effect, although the property is in the hands of a mortgagee. (*Ibid*, § 2541.)

**42.** If an insurer assents to the transfer of an insurance from a mortgagor to a mortgagee, and, at the time of his assent, imposes further obligations on the assignee, making a new contract with him, the acts of the mortgagor can not affect his rights. (*Ibid*, § 2543.)

#### INSURABLE INTEREST.

**43.** Every interest in property, or any relation thereto, or liability in respect thereof, of such a nature that a contemplated peril might directly damnify the insured, is an insurable interest. (*Ibid*, p. 420, § 2546.)

**44.** An insurable interest in property may consist in :

1. An existing interest ;
2. An inchoate interest founded on an existing interest ; or,
3. An expectancy, coupled with an existing interest in that out of which the expectancy arises. (*Ibid*, § 2547.)

**45.** A carrier or depository of any kind has an insurable interest in a thing held by him as such, to the extent of its value. (*Ibid*, § 2548.)

**46.** A mere contingent or expectant interest in anything, not founded on an actual right to the thing, nor upon any valid contract for it, is not insurable. (*Ibid*, § 2549.)

**47.** The measure of an insurable interest in property is the extent to which the insured might be damnified by loss or injury thereof. (*Ibid*, § 2550.)

**48.** The sole object of insurance is the indemnity of the insured, and if he has no insurable interest the contract is void. (*Ibid*, p. 421, § 2551.)

**49.** An interest insured must exist when the insurance takes effect, and when the loss occurs, but need not exist in the meantime. (*Ibid*, § 2552.)

**50.** Except in the cases specified in the next four sections, and in the cases of life, accident, and health insurance, a change of interest in any part of a thing insured, unaccompanied by a corresponding change of interest in the insurance, suspends the insurance to an equivalent extent, until the interest in the thing and the interest in the insurance are vested in the same person. (*Ibid*, § 2553.)

**51.** A change of interest in a thing insured, after the occurrence of an injury which results in a loss, does not affect the right of the insured to indemnity for the loss. (*Ibid*, § 2554.)

**52.** A change of interest in one or more of several distinct things, separately insured by one policy, does not avoid the insurance as to the others. (*Ibid*, § 2555.)

**53.** A change of interest, by will or succession, on the death of the insured, does not avoid an insurance ; and his interest in the insurance passes to the person taking his interest in the thing insured. (*Ibid*, § 2556.)

**54.** A transfer of interest by one of several partners, joint owners, or owners in common, who are jointly insured, to the others, does not avoid an insurance, even though it has been agreed that the insurance shall cease upon an alienation of the thing insured. (*Ibid*, § 2557.)

**55.** Every stipulation in a policy of insurance for the payment of loss whether the person insured has or has not any interest in the property insured, or that the policy shall be received as proof of such interest; and every policy executed by way of gaming or wager is void. (*Ibid*, § 2558 of amendments.)

#### CONCEALMENT AND REPRESENTATIONS.

**56.** A neglect to communicate that which a party knows, and ought to communicate, is called a concealment. (*Ibid*, p. 422, § 2561.)

**57.** A concealment, whether intentional or unintentional, entitles the injured party to rescind a contract of insurance. (*Ibid*, § 2562.)

**58.** Each party to a contract of insurance must communicate to the other, in good faith, all facts within his knowledge which are or which he believes to be material to the contract, and which the other has not the means of ascertaining, and as to which he makes no warranty. (*Ibid*, § 2563.)

**59.** Neither party to a contract of insurance is bound to communicate information of the matters following, except in answer to the inquiries of the other:

1. Those which the other knows;
2. Those which, in the exercise of ordinary care, the other ought to know, and of which the former has no reason to suppose him ignorant;
3. Those of which the other waives communication;
4. Those which prove or tend to prove the existence of a risk excluded by a warranty, and which are not otherwise material; and,
5. Those which relate to a risk excepted from the policy, and which are not otherwise material. (*Ibid*, § 2564.)

**60.** Materiality is to be determined not by the event, but solely by the probable and reasonable influence of the facts upon the party to whom the communication is due, in forming his estimate of the disadvantages of the proposed contract, or in making his inquiries. (*Ibid*, p. 423, § 2565.)

**61.** Each party to a contract of insurance is bound to know all the general causes which are open to his inquiry, equally with that of the other, and which may affect either the political or material perils contemplated, and all general usages of trade. (*Ibid*, § 2566.)

**62.** The right to information of material facts may be waived, either by the terms of insurance or by neglect to make inquiries as to such facts, where they are distinctly implied in other facts of which information is communicated. (*Ibid*, § 2567.)

**63.** Information of the nature or amount of the interest of one insured need not be communicated unless in answer to an inquiry, except as prescribed by section 2587. (*Ibid*, § 2568.)

**64.** An intentional and fraudulent omission, on the part of one insured, to communicate information of matters proving or

tending to prove the falsity of a warranty, entitles the insurer to rescind. (*Ibid*, § 2569.)

**65.** Neither party to a contract of insurance is bound to communicate, even upon inquiry, information of his own judgment upon the matters in question. (*Ibid*, p. 424, § 2570.)

**66.** A representation may be oral or written. (*Ibid*, § 2571.)

**67.** A representation may be made at the same time with issuing the policy, or before it. (*Ibid*, § 2572.)

**68.** The language of a representation is to be interpreted by the same rules as the language of contracts in general. (*Ibid*, § 2573.)

**69.** A representation as to the future is to be deemed a promise, unless it appears that it was merely a statement of belief or expectation. (*Ibid*, § 2574.)

**70.** A representation can not be allowed to qualify an express provision in a contract of insurance; but it may qualify an implied warranty. (*Ibid*, § 2575.)

**71.** A representation may be altered or withdrawn before the insurance is effected, but not afterwards. (*Ibid*, § 2576.)

**72.** The completion of the contract of insurance is the time to which a representation must be presumed to refer. (*Ibid*, § 2577.)

**73.** When a person insured has no personal knowledge of a fact, he may nevertheless repeat information which he has upon the subject, and which he believes to be true, with the explanation that he does so on the information of others, or he may submit the information, in its whole extent, to the insurer; and in neither case is he responsible for its truth, unless it proceeds from an agent of the insured, whose duty it is to give the intelligence. (*Ibid*, § 2578.)

**74.** A representation is to be deemed false when the facts fail to correspond with its assertions or stipulations. (*Ibid*, § 2579.)

**75.** If a representation is false in a material point, whether affirmative or promissory, the injured party is entitled to rescind the contract from the time when the representation becomes false. (*Ibid*, p. 425, § 2580.)

**76.** The materiality of a representation is determined by the same rule as the materiality of a concealment. (*Ibid*, § 2581.)

**77.** The provisions of this Article apply as well to a modification of a contract of insurance as to its original formation. (*Ibid*, § 2582.)

**78.** Whenever a right to rescind a contract of insurance is given to the insurer by any provision of this Chapter, such right may be exercised at any time previous to the commencement of an action on the contract. (*Ibid*, § 2283 of amendments.)

#### THE POLICY.

**79.** The written instrument, in which a contract of insurance is set forth, is called a policy of insurance. (*Ibid*, § 2586.)

**80.** A policy of insurance must specify:

1. The parties between whom the contract is made;
2. The rate of premium;
3. The property or life insured;
4. The interest of the insured in property insured, if he is not the absolute owner thereof;

5. The risks insured against; and,

6. The period during which the insurance is to continue.

(*Ibid*, § 2587.)

**81.** When the name of the person intended to be insured is specified in a policy, it can be applied only to his own proper interest. (*Ibid*, p. 426, § 2588.)

**82.** When an insurance is made by an agent or trustee, the fact that his principal or beneficiary is the person really insured may be indicated by describing him as agent or trustee, or by other general words in the policy. (*Ibid*, § 2589.)

**83.** To render an insurance, effected by one partner or part owner, applicable to the interest of his copartners, or of other part owners, it is necessary that the terms of the policy should be such as are applicable to the joint or common interest. (*Ibid*, § 2590.)

**84.** When the description of the insured in a policy is so general that it may comprehend any person or any class of persons, he only can claim the benefit of the policy who can show that it was intended to include him. (*Ibid*, § 2591.)

**85.** A policy may be so framed that it will inure to the benefit of whomsoever, during the continuance of the risk, may become the owner of the interest insured. (*Ibid*, § 2592.)

**86.** The mere transfer of a thing insured does not transfer the policy, but suspends it until the same person becomes the owner of both the policy and the thing insured. (*Ibid*, § 2593.)

**87.** A policy is either open or valued. (*Ibid*, § 2594.)

**88.** An open policy is one in which the value of the thing insured is not agreed upon, but is left to be ascertained in case of loss. (*Ibid*, § 2595.)

**89.** A valued policy is one which expresses on its face an agreement that the thing insured shall be valued at a specified sum. (*Ibid*, p. 427, § 2596.)

**90.** A running policy is one which contemplates successive insurances, and which provides that the object of the policy may be from time to time defined, especially as to the subjects of insurance, by additional statements or indorsements. (*Ibid*, § 2597.)

**91.** An acknowledgment in a policy of the receipt of premium is conclusive evidence of its payment, so far as to make the policy binding, notwithstanding any stipulation therein that it shall not be binding until the premium is actually paid. (*Ibid*, § 2598.)

**92.** An agreement made before a loss, not to transfer the claim of a person insured against the insurer after the loss has happened, is void. (*Ibid*, § 2599.)

#### WARRANTIES.

**93.** A warranty is either express or implied. (*Ibid*, § 2603.)

**94.** No particular form of words is necessary to create a warranty. (*Ibid*, § 2604.)

**95.** Every express warranty, made at or before the execution of a policy, must be contained in the policy itself, or in another instrument signed by the insured and referred to in the policy, as making a part of it. (*Ibid*, § 2605, as amended.)

**96.** A warranty may relate to the past, the present, the future, or to any or all of these. (*Ibid*, p. 428, § 2606.)

**97.** A statement in a policy, of a matter relating to the person



or thing insured, or to the risk, as a fact, is an express warranty thereof. (*Ibid*, § 2607.)

**98.** A statement in a policy, which imports that it is intended to do or not to do a thing which materially affects the risk, is a warranty that such act or omission shall take place. (*Ibid*, § 2608.)

**99.** When, before the time arrives for the performance of a warranty relating to the future, a loss insured against happens, or performance becomes unlawful at the place of the contract, or impossible, the omission to fulfill the warranty does not avoid the policy. (*Ibid*, § 2609, *as amended*.)

**100.** The violation of a material warranty, or other material provision of a policy, on the part of either party thereto, entitles the other to rescind. (*Ibid*, § 2610.)

**101.** A policy may declare that a violation of specified provisions thereof shall avoid it, otherwise the breach of an immaterial provision does not avoid the policy. (*Ibid*, § 2611.)

**102.** A breach of warranty, without fraud, merely exonerates an insurer from the time that it occurs, or where it is broken in its inception prevents the policy from attaching to the risk. (*Ibid*, § 2612.)

#### PREMIUM.

**103.** An insurer is entitled to payment of the premium as soon as the thing insured is exposed to the peril insured against. (*Ibid*, p. 429, § 2616.)

**104.** A person insured is entitled to a return of premium, as follows:

1. To the whole premium, if no part of his interest in the thing insured be exposed to any of the perils insured against.

2. Where the insurance is made for a definite period of time, and the insured surrenders his policy, to such proportion of the premium as corresponds with the unexpired time, after deducting from the whole premium any claim for loss or damage under the policy which has previously accrued. (*Ibid*, § 2617, *as amended*.)

**105.** If a peril insured against has existed, and the insurer has been liable for any period, however short, the insured is not entitled to return of premiums, so far as that particular risk is concerned. (*Ibid*, § 2618, *as amended*.)

**106.** A person insured is entitled to a return of the premium when the contract is voidable, on account of the fraud or misrepresentation of the insurer, or on account of facts of the existence of which the insured was ignorant without his fault; or when, by any default of the insured other than actual fraud, the insurer never incurred any liability under the policy. (*Ibid*, § 2619.)

**107.** In case of an over-insurance by several insurers, the insured is entitled to a ratable return of the premium, proportioned to the amount by which the aggregate sum insured in all the policies exceeds the insurable value of the thing at risk. (*Ibid*, § 2620.)

**108.** When an over-insurance is effected by simultaneous policies, the insurers contribute to the premium to be returned in proportion to the amount insured by their respective policies. (*Ibid*, § 2621.)

**109.** When an over-insurance is effected by successive policies, those only contribute to a return of the premium who are exon-



erated by prior insurances from the liability assumed by them, and in proportion as the sum for which the premium was paid exceeds the amount for which, on account of prior insurance, they could be made liable. (*Ibid*, § 2621.)

#### LOSS.

**110.** An insurer is liable for a loss of which a peril insured against was the proximate cause, although a peril not contemplated by the contract may have been a remote cause of the loss; but he is not liable for a loss of which the peril insured against was only a remote cause. (*Ibid*, § 2626.)

**111.** An insurer is liable where the thing insured is rescued from a peril insured against, that would otherwise have caused a loss, if in the course of such rescue the thing is exposed to a peril not insured against, which permanently deprives the insured of its possession, in whole or in part; or where a loss is caused by efforts to rescue the thing insured from a peril insured against. (*Ibid*, § 2627.)

**112.** Where a peril is specially excepted in a contract of insurance, a loss, which would not have occurred but for such peril, is thereby excepted, although the immediate cause of the loss was a peril which was not excepted. (*Ibid*, § 2628.)

**113.** An insurer is not liable for a loss caused by the willful act of the insured; but he is not exonerated by the negligence of the insured, of his agents or others. (*Ibid*, p. 431, § 2629, *as amended*.)

#### NOTICE OF LOSS.

**114.** In case of loss upon an insurance against fire, an insurer is exonerated, if notice thereof be not given to him by some person insured, or entitled to the benefit of the insurance, without unnecessary delay. (*Ibid*, § 2633, *as amended*.)

**115.** When preliminary proof of loss is required by a policy, the insured is not bound to give such proof as would be necessary in a court of justice; but it is sufficient for him to give the best evidence which he has in his power at the time. (*Ibid*, § 2634.)

**116.** All defects in a notice of loss, or in preliminary proof thereof, which the insured might remedy, and which the insurer omits to specify to him, without unnecessary delay, as grounds of objection, are waived. (*Ibid*, § 2635.)

**117.** Delay in the presentation to an insurer of notice or proof of loss is waived, if caused by any act of his, or if he omits to make objection promptly and specifically upon that ground. (*Ibid*, § 2636.)

**118.** If a policy requires, by way of preliminary proof of loss, the certificate or testimony of a person other than the insured, it is sufficient for the insured to use reasonable diligence to procure it, and in case of the refusal of such person to give it, then to furnish reasonable evidence to the insurer that such refusal was not induced by any just grounds of disbelief in the facts necessary to be certified. (*Ibid*, § 2637.)

#### DOUBLE INSURANCE.

**119.** A double insurance exists where the same person is insured by several insurers separately in respect to the same subject and interest. (*Ibid*, p. 432, § 2641.)

**120.** In case of double insurance, the several insurers are liable to pay losses thereon as follows:

1. In fire insurance, each insurer must contribute ratably towards the loss, without regard to the dates of the several policies.

2. In marine insurance, the liability of the several insurers for a total loss, whether actual or constructive, where the policies are not simultaneous, is in the order of the dates of the several policies; no liability attaching to a second or other subsequent policy, except as to the excess of the loss over the amount of all previous policies on the same interest. If two or more policies bear date upon the same day, they are deemed to be simultaneous, and the liability of insurers on simultaneous policies is to contribute ratably with each other. The insolvency of any of the insurers does not affect the proportionate liability of the other insurers. The liability of all insurers on the same marine interest for a partial or average loss is to contribute ratably. (*Ibid*, § 2642, as amended.)

#### REINSURANCE.

**121.** A contract of reinsurance is one by which an insurer procures a third person to insure him against loss or liability by reason of such original insurance. (*Ibid*, § 2646.)

**122.** Where an insurer obtains reinsurance, he must communicate all the representations of the original insured, and also all the knowledge and information he possesses, whether previously or subsequently acquired, which are material to the risk. (*Ibid*, § 2647.)

**123.** A reinsurance is presumed to be a contract of indemnity against liability, and not merely against damage. (*Ibid*, § 2648.)

**124.** The original insured has no interest in a contract of reinsurance. (*Ibid*, p. 433, § 2649.)

#### MARINE INSURANCE.

**125.** Marine insurance is an insurance against risks connected with navigation, to which a ship, cargo, freightage, profits, or other insurable interest in movable property may be exposed during a certain voyage or a fixed period of time. (*Ibid*, § 2655.)

#### INSURABLE INTEREST.

**126.** The owner of a ship has in all cases an insurable interest in it, even when it has been chartered by one who covenants to pay him its value in case of loss. (*Ibid*, p. 434, § 2659.)

**127.** The insurable interest of the owner of a ship hypothecated by bottomry is only the excess of its value over the amount secured by bottomry. (*Ibid*, § 2660.)

**128.** Freightage, in the sense of a policy of marine insurance, signifies all the benefit derived by the owner, either from the chartering of the ship or its employment for the carriage of his own goods or those of others. (*Ibid*, § 2661.)

**129.** The owner of a ship has an insurable interest in expected freightage which he would have certainly earned but for the intervention of a peril insured against. (*Ibid*, § 2662.)

**130.** The interest mentioned in the last section exists, in the case of a charter party, when the ship has broken ground on the chartered voyage, and if a price is to be paid for the carriage of goods when they are actually on board, or there is some contract for putting them on board, and both ship and goods are ready for the specified voyage. (*Ibid*, § 2663.)

**131.** One who has an interest in the thing from which profits are expected to proceed, has an insurable interest in the profits. (*Ibid*, § 2664.)

**132.** The charterer of a ship has an insurable interest in it to the extent that he is liable to be damnified by its loss. (*Ibid*, § 2665.)

#### CONCEALMENT.

**133.** In marine insurance each party is bound to communicate, in addition to what is required by section 2563, all the information which he possesses, material to the risk, except such as is mentioned in section 2564, and to state the exact and whole truth in relation to all matters that he represents, or upon inquiry assumes to disclose. (*Ibid*, p. 435, § 2669.)

**134.** In marine insurance, information of the belief or expectation of a third person, in reference to a material fact, is material. (*Ibid*, § 2670.)

**135.** A person insured by a contract of marine insurance is presumed to have had knowledge, at the time of insuring, of a prior loss, if the information might possibly have reached him in the usual mode of transmission, and at the usual rate of communication. (*Ibid*, § 2671.)

**136.** A concealment in a marine insurance, in respect to any of the following matters, does not vitiate the entire contract, but merely exonerates the insurer from a loss resulting from the risk concealed:

1. The national character of the insured;
2. The liability of the thing insured to capture and detention;
3. The liability to seizure from breach of foreign laws of trade;
4. The want of necessary documents; and
5. The use of false and simulated papers. (*Ibid*, § 2672.)

#### REPRESENTATIONS.

**137.** If a representation, by a person insured by a contract of marine insurance, is intentionally false in any respect, whether material or immaterial, the insurer may rescind the entire contract. (*Ibid*, p. 436, § 2676.)

**138.** The eventual falsity of a representation as to expectation does not, in the absence of fraud, avoid a contract of insurance. (*Ibid*, § 2677.)

#### IMPLIED WARRANTIES.

**139.** In every marine insurance upon a ship or freight, or freightage, or upon anything which is the subject of marine insur-

ance, a warranty is implied that the ship is seaworthy. (*Ibid*, § 2681, *as amended*.)

**140.** A ship is seaworthy when reasonably fit to perform the services, and to encounter the ordinary perils of the voyage contemplated by the parties to the policy. (*Ibid*, § 2682.)

**141.** An implied warranty of seaworthiness is complied with if the ship be seaworthy at the time of the commencement of the risk, except in the following cases:

1. When the insurance is made for a specified length of time the implied warranty is not complied with unless the ship be seaworthy at the commencement of every voyage she may undertake during that time; and

2. When the insurance is upon the cargo, which, by the terms of the policy, or the description of the voyage, or the established custom of the trade, is to be transhipped at an intermediate port, the implied warranty is not complied with unless each vessel upon which the cargo is shipped or transhipped be seaworthy at the commencement of its particular voyage. (*Ibid*, § 2683, *as amended*.)

**142.** A warranty of seaworthiness extends not only to the condition of the structure of the ship itself, but requires that it be properly laden, and provided with a competent master, a sufficient number of competent officers and seamen, and the requisite appurtenances and equipments, such as ballast, cables, and anchors, cordage and sails, food, water, fuel, and lights, and other necessary or proper stores and implements for the voyage. (*Ibid*, p. 437, § 2684.)

**143.** Where different portions of the voyage contemplated by a policy differ in respect to the things requisite to make the ship seaworthy therefor, a warranty of seaworthiness is complied with if, at the commencement of each portion, the ship is seaworthy with reference to that portion. (*Ibid*, § 2685.)

**144.** When a ship becomes unseaworthy during the voyage to which an insurance relates, an unreasonable delay in repairing the defect exonerates the insurer from liability from any loss arising therefrom. (*Ibid*, § 2686.)

**145.** A ship which is seaworthy for the purpose of an insurance upon the ship may, nevertheless, by reason of being unfitted to receive the cargo, be unseaworthy for the purpose of insurance upon the cargo. (*Ibid*, § 2687.)

**146.** Where the nationality or neutrality of a ship or cargo is expressly warranted it is implied that the ship will carry the requisite documents to show such nationality or neutrality, and that it will not carry any documents which cast reasonable suspicion thereon. (*Ibid*, § 2688.)

#### THE VOYAGE AND DEVIATION.

**147.** When the voyage contemplated by a policy is described by the places of beginning and ending, the voyage insured is one which conforms to the course of sailing fixed by mercantile usage between those places. (*Ibid*, p. 438, § 2692.)

**148.** If the course of sailing is not fixed by mercantile usage, the voyage insured by a policy is the way between the places specified which, to a master of ordinary skill and discretion, would seem the most natural, direct, and advantageous. (*Ibid*, § 2693.)



**149.** Deviation is a departure from the course of the voyage insured, mentioned in the last two sections, or an unreasonable delay in pursuing the voyage, or the commencement of an entirely different voyage. (*Ibid*, § 2694.)

**150.** A deviation is proper :

1. When caused by circumstances over which neither the master nor the owner of the ship has any control ;
2. When necessary to comply with a warranty, or to avoid a peril, whether insured against or not ;
3. When made in good faith, and upon reasonable grounds of belief in its necessity to avoid a peril ; or,
4. When made in good faith, for the purpose of saving human life, or relieving another vessel in distress. (*Ibid*, § 2695.)

**151.** Every deviation not specified in the last section is improper. (*Ibid*, § 2696.)

**152.** An insurer is not liable for any loss happening to a thing insured subsequently to an improper deviation. (*Ibid*, § 2697.)

#### LOSS.

**153.** A loss may be either total or partial. (*Ibid*, p. 439, § 2701.)

**154.** Every loss which is not total is partial. (*Ibid*, § 2702.)

**155.** A total loss may be either actual or constructive. (*Ibid*, § 2703.)

**156.** An actual total loss is caused by :

1. A total destruction of the thing insured ;
2. The total loss of the thing by sinking, or by being broken up.
3. Any damage to the thing which renders it valueless to the owner for the purposes for which he held it ; or,
4. Any other event which entirely deprives the owner of the possession, at the port of destination, of the thing insured. (*Ibid*, § 2704.)

**157.** A constructive total loss is one which gives to a person insured a right to abandon, under section 2717. (*Ibid*, § 2705.)

**158.** An actual loss may be presumed from the continued absence of a ship without being heard of ; and the length of time which is sufficient to raise this presumption depends on the circumstances of the case. (*Ibid*, § 2706.)

**159.** When a ship is prevented, at an intermediate port, from completing the voyage, by the perils insured against, the master must make every exertion to procure, in the same or a contiguous port, another ship, for the purpose of conveying the cargo to its destination ; and the liability of a marine insurer thereon continues after they are thus reshipped. (*Ibid*, p. 440, § 2707, *as amended*.)

**160.** In addition to the liability mentioned in the last section, a marine insurer is bound for damages, expenses of discharging, storage, reshipment, extra freightage, and all other expenses incurred in saving cargo reshipped pursuant to the last section, up to the amount insured. (*Ibid*, § 2708.)

**161.** Upon an actual total loss, a person insured is entitled to payment without notice of abandonment. (*Ibid*, § 2709.)

**162.** Where it has been agreed that an insurance upon a particular thing, or class of things, shall be free from particular aver-



age, a marine insurer is not liable for any particular average loss not depriving the insured of the possession, at the port of destination, of the whole of such thing, or class of things, even though it become entirely worthless; but he is liable for his proportion of all general average loss assessed upon the thing insured. (*Ibid*, § 2711, *as amended*.)

**163.** An insurance confined in terms to an actual total loss, does not cover a constructive total loss, but covers any loss which necessarily results in depriving the insured of the possession, at the port of destination, of the entire thing insured. (*Ibid*, § 2712, *as amended*.)

#### ABANDONMENT.

**164.** Abandonment is the act by which, after a constructive total loss, a person insured by contract of marine insurance declares to the insurer that he relinquishes to him his interest in the thing insured. (*Ibid*, p. 441, § 2716.)

**165.** A person insured by a contract of marine insurance may abandon the thing insured, or any particular portion thereof separately valued by the policy, or otherwise separately insured, and recover for a total loss thereof, when the cause of the loss is a peril insured against:

1. If more than half thereof in value is actually lost, or would have to be expended to recover it from the peril;

2. If it is injured to such an extent as to reduce its value more than one-half;

3. If the thing insured, being a ship, the contemplated voyage can not be lawfully performed without incurring an expense to the insured of more than half the value of the thing abandoned, or without incurring a risk which a prudent man would not take under the circumstances; or,

4. If the thing insured, being cargo or freightage, the voyage can not be performed nor any other ship procured by the master, within a reasonable time and with reasonable diligence, to forward the cargo, without incurring the like expense or risk. But freightage can not in any case be abandoned, unless the ship is also abandoned. (*Ibid*, § 2717.)

**166.** An abandonment must be neither partial nor conditional. (*Ibid*, p. 442, § 2718.)

**167.** An abandonment must be made within a reasonable time after the information of the loss, and after the commencement of the voyage, and before the party abandoning has information of its completion. (*Ibid*, § 2719.)

**168.** Where the information upon which an abandonment has been made proves incorrect, or the thing insured was so far restored when the abandonment was made that there was then in fact no total loss, the abandonment becomes ineffectual. (*Ibid*, § 2720.)

**169.** Abandonment is made by giving notice thereof to the insurer, which may be done orally, or in writing. (*Ibid*, § 2721.)

**170.** A notice of abandonment must be explicit, and must specify the particular cause of the abandonment, but need state only enough to show that there is probable cause therefor, and need not be accompanied with proof of interest or of loss. (*Ibid*, § 2722.)

**171.** An abandonment can be sustained only upon the cause specified in the notice thereof. (*Ibid*, § 2723.)

**172.** An abandonment is equivalent to a transfer by the insured of his interest to the insurer, with all the chances of recovery and indemnity. (*Ibid*, § 2724.)

**173.** If a marine insurer pays for a loss as if it were an actual total loss, he is entitled to whatever may remain of the thing insured, or its proceeds or salvage, as if there had been a formal abandonment. (*Ibid*, p. 443, § 2725.)

**174.** Upon an abandonment, acts done in good faith by those who were agents of the insured in respect to the thing insured, subsequent to the loss, are at the risk of the insurer, and for his benefit. (*Ibid*, § 2726.)

**175.** An acceptance of an abandonment is not necessary to the rights of the insured, and is not to be presumed from the mere silence of the insurer, upon his receiving notice of abandonment. (*Ibid*, § 2727.)

**176.** The acceptance of an abandonment, whether express or implied, is conclusive upon the parties, and admits the loss and the sufficiency of the abandonment. (*Ibid*, § 2728.)

**177.** An abandonment once made and accepted is irrevocable, unless the ground upon which it was made proves to be unfounded. (*Ibid*, § 2729.)

**178.** On an accepted abandonment of a ship, freightage earned previous to the loss belongs to the insurer thereof; but freightage subsequently earned belongs to the insurer of the ship. (*Ibid*, § 2730.)

**179.** If an insurer refuses to accept a valid abandonment, he is liable as upon an actual total loss, deducting from the amount any proceeds of the thing insured which may have come to the hands of the insured. (*Ibid*, § 2731.)

**180.** If a person insured omits to abandon, he may nevertheless recover his actual loss. (*Ibid*, § 2732.)

**181.** The power of the master of a ship to bind its owner, or the owners of the cargo, ceases upon the abandonment of the ship and freightage to insurers. (*Ibid*, p. 398, § 2381.)

#### MEASURES OF INDEMNITY.

**182.** A valuation in a policy of marine insurance is conclusive between the parties thereto in the adjustment of either a partial or total loss, if the insured has some interest at risk, and there is no fraud on his part; except that when a thing has been hypothecated by bottomry or respondentia, before its insurance, and without the knowledge of the person actually procuring the insurance, he may show the real value. But a valuation fraudulent in fact entitles the insurer to rescind the contract. (*Ibid*, p. 444, § 2736.)

**183.** A marine insurer is liable upon a partial loss only for such proportion of the amount insured by him as the loss bears to the value of the whole interest of the insured in the property insured. (*Ibid*, § 2737.)

**184.** Where profits are separately insured in a contract of marine insurance, the insured is entitled to recover, in case of loss, a proportion of such profits equivalent to the proportion which the value of the property lost bears to the value of the whole. (*Ibid*, § 2738.)

**185.** In case of a valued policy of marine insurance on freight-

age or cargo, if a part only of the subject is exposed to risk, the valuation applies only in proportion to such part. (*Ibid*, § 2739.)

**186.** When profits are valued and insured by a contract of marine insurance, a loss of them is conclusively presumed from a loss of the property out of which they were expected to arise, and the valuation fixes their amount. (*Ibid*, p. 445, § 2740.)

**187.** In estimating a loss under an open policy of marine insurance the following rules are to be observed :

1. The value of a ship is its value at the beginning of the risk, including all articles or charges which add to its permanent value, or which are necessary to prepare it for the voyage insured ;

2. The value of cargo is its actual cost to the insured, when laden on board, or where that cost can not be ascertained, its market value at the time and place of lading, adding the charges incurred in purchasing and placing it on board, but without reference to any losses incurred in raising money for its purchase, or to any drawback on its exportation, or to the fluctuations of the market at the port of destination, or to expenses incurred on the way or on arrival ;

3. The value of freightage is the gross freightage, exclusive of primage, without reference to the cost of earning it ; and,

4. The cost of insurance is in each case to be added to the value thus estimated. (*Ibid*, § 2741.)

**188.** If cargo insured against partial loss arrives at the port of destination in a damaged condition, the loss of the insured is deemed to be the same proportion of the value which the market price at that port, of the thing so damaged, bears to the market price it would have brought if sound. (*Ibid*, § 2742.)

**189.** A marine insurer is liable for all the expense attendant upon a loss which forces the ship into port to be repaired ; and where it is agreed that the insured may labor for the recovery of the property, the insurer is liable for the expense incurred thereby, such expense, in either case, being in addition to a total loss, if that afterwards occurs. (*Ibid*, § 2743.)

**190.** A marine insurer is liable for a loss falling upon the insured, through a contribution in respect to the thing insured, required to be made by him towards a general average loss called for by a peril insured against. (*Ibid*, p. 446, § 2744.)

**191.** Where a person insured by a contract of marine insurance has a demand against others for contribution, he may claim the whole loss from the insurer, subrogating him to his own right to contribution. But no such claim can be made upon the insurer after the separation of the interests liable to contribution, nor when the insured, having the right and opportunity to enforce contribution from others, has neglected or waived the exercise of that right. (*Ibid*, § 2745, *as amended*.)

**192.** In case of a partial loss of a ship or its equipments, the old materials are to be applied towards payment for the new, and whether the ship is new or old, a marine insurer is liable for only two-thirds of the remaining cost of the repairs, except that he must pay for anchors and cannon in full, and for sheathing metal at a depreciation of only two and one-half per cent. for each month that it has been fastened to the ship. (*Ibid*, § 2746.)

## FIRE INSURANCE.

**193.** An alteration in the use or condition of a thing insured from that to which it is limited by the policy, made without the consent of the insurer, by means within the control of the insured, and increasing the risk, entitles an insurer to rescind a contract of fire insurance. (*Ibid*, p. 447, § 2753.)

**194.** An alteration in the use or condition of a thing insured from that to which it is limited by the policy, which does not increase the risk, does not affect a contract of fire insurance. (*Ibid*, § 2754.)

**195.** A contract of fire insurance is not affected by any act of the insured subsequent to the execution of the policy, which does not violate its provisions, even though it increases the risk and is the cause of a loss. (*Ibid*, § 2755.)

**196.** If there is no valuation in the policy, the measure of indemnity in an insurance against fire is the expense, at the time that the loss is payable, of replacing the thing lost or injured in the condition in which it was at the time of the injury; but the effect of a valuation in a policy of fire insurance is the same as in a policy of marine insurance. (*Ibid*, § 2756.)

## LIFE AND HEALTH INSURANCE.

**197.** An insurance upon life may be made payable on the death of the person, or on his surviving a specified period, or periodically so long as he shall live, or otherwise contingently on the continuance or determination of life. (*Ibid*, § 2762.)

**198.** Every person has an insurable interest in the life and health:

1. Of himself;
2. Of any person on whom he depends wholly or in part for education or support;
3. Of any person under a legal obligation to him for the payment of money, or respecting property or services, of which death or illness might delay or prevent the performance; and,
4. Of any person upon whose life any estate or interest vested in him depends. (*Ibid*, p. 448, § 2763.)

**199.** A policy of insurance upon life or health may pass by transfer, will, or succession to any person, whether he has an insurable interest or not, and such person may recover upon it whatever the insured might have recovered. (*Ibid*, § 2764.)

**200.** Notice to an insurer of a transfer or bequest thereof is not necessary to preserve the validity of a policy of insurance upon life or health, unless thereby expressly required. (*Ibid*, § 2765.)

**201.** Unless the interest of a person insured is susceptible of exact pecuniary measurement, the measure of indemnity under a policy of insurance upon life or health is the sum fixed in the policy. (*Ibid*, § 2766.)

**202.** No policy of insurance on life hereafter issued by any company incorporated under the laws of this State shall be forfeited or become void by the non-payment of premium thereon, any further than regards the right of the party insured therein to have it continued in force beyond a certain period, to be determined as



follows, to wit: the net value of the policy when the premium becomes due and is not paid shall be ascertained according to the American Experience Life Table rate of mortality, with interest at four and a half per centum per annum, or the same interest which has been assumed in finding the net value of the policy, after deducting from such net value any indebtedness to the company, or notes held by the company against the insured, which notes, if given for premium, shall then be canceled. Four-fifths of what remains shall be considered as a net single premium of temporary insurance, and the term for which it will insure shall be determined according to the age of the party at the time of the lapse of premium and the assumption of mortality and interest aforesaid. (*Act approved February 2, 1872, § 1.*)

**203.** If the death of the party occur within the term of the temporary insurance covered by the value of the policy, as determined in the previous section, and if no condition of the insurance other than the payment of the premium shall have been violated by the insured, the company shall be bound to pay the amount of the policy the same as if there had been no lapse of premium, anything in the policy to the contrary notwithstanding; *Provided*, however, that notice of the claim and proofs of death shall be submitted to the company within six months of the decease; and *provided*, also, that the company shall have the right to deduct from the amount insured in the policy the amount, at ten per centum per annum, of the premium that has been forborne at the time of the death. (*Ibid*, § 2.)

### THE INSURANCE COMMISSIONER.

**204.** The number and designation of the civil executive officers are as follows:

(Among others) An Insurance Commissioner. (*Political Code, 1872, p. 69, § 343.*)

**205.** The following executive officers are appointed by the Governor, with the consent of the Senate:

1. The Inspector of Gas Meters; the Trustees of the State Burying Grounds.

2. The Directors of the Insane Asylum; the Trustees of the Asylum for the Deaf, Dumb, and Blind; the Port Wardens; the Insurance Commissioner; the members of the State Board of Health; a Vaccine Agent.

3. The Commissioner of Immigration; the Pilot Commissioners; the Pilots for each harbor where there is not a Board of Pilot Commissioners; the Fish Commissioners; the State Geologist; the Tide Land Commissioners. (*Ibid*, p. 75, § 368.)

**206.** The officers enumerated in the first subdivision of the last section hold their offices for the term of two years, those in the second subdivision for the term of four years, and those in the third subdivision during the Governor's pleasure. (*Ibid*, § 369.)

**207.** No person is eligible to the office of Insurance Commissioner or Deputy who is an officer, agent, or employee of an insurance company. (*Ibid*, p. 115, § 594.)

**208.** The Insurance Commissioner must receive all bonds and securities of persons engaged in the transaction of insurance business in this State, and file and safely keep the same in his office, or deposit them as provided in this Article. He must examine and



inspect the financial condition of all persons engaged or who desire to engage in the business of insurance; issue a certificate of authority to transact insurance business in this State to any persons in a solvent condition who have fully complied with the laws of this State; determine the sufficiency and validity of all bonds, and other securities required to be given by persons engaged or to be engaged in insurance business, and cause the same to be renewed in case of the insufficiency or invalidity thereof; and perform all other duties imposed upon him by the laws regulating the business of insurance in this State, and enforce the execution of such laws; prepare and furnish on demand, to all persons engaged in the insurance business, blank forms for such statements or reports as may by law be required of them; make, on or before the first day of August, in each year, a report to the Governor of this State, containing a tabular statement and synopsis of the reports which have been filed in his office, showing generally the condition of the insurance business and interests in this State, and other matters concerning insurance, and a detailed statement, verified by oath, of the moneys and fees of office received by him, and for what purpose. And whenever any insurance company doing business in this State shall voluntarily surrender to the Insurance Commissioner its certificate of authority previously granted, thereby withdrawing from business in the State, the Commissioner must make due publication of such surrender and withdrawal, daily, for the period of one month, in some newspaper published in the City of San Francisco. (*Ibid*, § 595.)

**209.** Of the report of the Insurance Commissioner, the Commissioner must have printed, at the expense of his office, one thousand copies, and must deliver of the same as follows:

To the Governor, twenty copies.

To the State Librarian, ten copies.

To the Secretary of State, thirty copies.

To the Sergeant-at-Arms of the Senate, eighty copies.

To the Sergeant-at-Arms of the Assembly, one hundred and sixty copies.

And the residue must be distributed by the Commissioner in furtherance of the interest of insurance. (*Ibid*, § 337 of amendments.)

**210.** No person must transact insurance business in this State without first procuring from the Insurance Commissioner a certificate of authority, as in this chapter provided, and all policies issued or renewed, and all insurances taken before obtaining such certificate of authority, are null and void; and any person issuing or renewing a policy without such certificate shall forfeit to the people of the State of California the sum of one hundred dollars for each policy so issued or renewed, to be collected by the Insurance Commissioner in the manner prescribed in section five hundred and ninety-eight of this Code. But any company or corporation belonging to any other State or count[r]y, having policies of life insurance outstanding in this State, and that were issued in accordance with the laws of the State, shall have the right to maintain an agent in this State for the collection of renewal premiums on such policies, and the Commissioner is hereby authorized to issue to the duly appointed agent of such company or corporation a certificate authorizing him to collect such premiums. But the company or corporation must satisfy the Commissioner that it is authorized

to transact insurance business in the State to which it belongs. The agent must, on or before the tenth day of January in each year, file with the Commissioner a statement, under oath, showing the gross amount of premiums collected by him during the year ending on the thirty-first day of December next preceding; and upon filing such statement he must pay into the office of the Commissioner the sum of twenty dollars, in gold coin of the United States. (*Ibid*, p. 116, § 596, *as amended*.)

**211.** The Commissioner, whenever necessary, or whenever he is requested by verified petition, signed by three persons interested, either as stockholders, policy-holders, or creditors of any person engaged in insurance business, showing that such person is insolvent under the laws of this State, must make examination of the business and affairs relating to the insurance business of such person; and for such purpose has free access to all the books and papers of such person, and must thoroughly inspect and examine all his affairs, and ascertain his condition and ability to fulfill his engagements, and whether he has complied with all the provisions of law applicable to his insurance transactions. Such person and his officers and agents must open his books and papers for the inspection of the Commissioner, and otherwise facilitate such examination; and the Commissioner may administer oaths and examine under oath any persons relative to the business of such person; and if he finds the books to have been carelessly or improperly kept or posted, he must employ sworn experts to rewrite, post, and balance the same, at the expense of such person. Such examination must be conducted in the county where such person has his principal place of business, and must be private, unless the Commissioner deems it necessary to publish the result of such investigation, in which case he may publish the same in two of the public newspapers of this State, one of which must be published in the City of San Francisco. (*Ibid*, § 597.)

**212.** The Commissioner may collect the sum of five hundred dollars from any person engaged in the business of insurance for each refusal to give full and truthful information and response in writing to any inquiry in writing by the Commissioner relating to the business of insurance as carried on by him; and for that purpose suits may be instituted by the Commissioner, in the name of the people of the State of California, in any Court of competent jurisdiction. (*Ibid*, § 598.)

**213.** The Commissioner may issue subpoenas for witnesses to attend and testify before him on any subject touching insurance business or in aid of his duties, which must be served, obeyed, and enforced as provided in the Code of Civil Procedure for civil cases, the Commissioner to issue attachments and impose the penalty for disobedience; and, in addition, the defaulting witness may be punished as provided in the Penal Code. (*Ibid*, p. 117, § 599.)

**214.** Whenever the Commissioner ascertains that any person engaged in the insurance business is insolvent within the meaning of this chapter, he must revoke the certificate granted, and send by mail to such person, addressed to him at his principal place of business, or deliver to him personally, notice of such revocation, and cause notice thereof to be filed in his office, and also to be published daily for four weeks in some newspaper published in the City of San Francisco. He must require such person, after receiving notice of the revocation, or after the first publication

thereof, to discontinue the issuing of any new policies, and the renewal of any previously issued; and in such cases must require the person or the manager or agent of the business to repair the capital thereof within such period as he may designate in such requisition, by assessment upon the stockholders for such amounts as will make the capital equal to the amount of the paid up capital, exclusive of assets needed to pay all ascertained liabilities for losses reported, for expenses and taxes, and exclusive of the entire premiums received for outstanding risks. (*Ibid*, § 600.)

**215.** In case any person, upon the requisition of the Commissioner, fails to make up the deficiency of the capital in accordance with the requirements of this Chapter, or to comply in all respects with the laws of this State, the Commissioner must communicate the fact to the Attorney-General, who must commence an action in the name of the people of this State, in the district court of the judicial district where the person in question is located or has his principal office, against such person, and apply for an order requiring cause to be shown why the business should not be closed; and the Court must thereupon hear the allegations and proofs of the respective parties as in other cases. If it appears to the satisfaction of the Court that such person is insolvent, or that the interests of the public so require, the Court must decree a dissolution of such corporation, and a winding up of its affairs and a distribution of the effects of such person; but otherwise, the Court must enter a decree annulling the act of the Commissioner in the premises, and authorizing such person to resume business. But the Commissioner must not be held liable for damages, if he has acted in good faith. In the event of any additional losses occurring upon new risks taken after the expiration of the period limited by the Commissioner in the requisition, and before the deficiency has been filled up, the directors of any company, corporation, or association are individually liable to the extent thereof. (*Ibid*, p. 118, § 601.)

**216.** Whenever provision for the liabilities of any person engaged in the insurance business in this State for losses reported, expenses, taxes, and reinsurance of all outstanding risks estimated at fifty per cent. of the premiums received and receivable on all fire risks and marine time risks, at the full premium received and receivable on all the marine risks, and at rates for life risks based upon the rates of mortality established by the American Experience Life Table, and interest at four and one-half per cent. per annum, and such rates for accident and other kinds of insurance as are accepted by the insurance authorities of the State of New York, would so far impair his capital stock paid in to reduce the same below two hundred thousand dollars in gold coin of the United States, or below sixty per cent. of said capital stock paid in, such person is insolvent; and in the case of a person thus engaged in the insurance business in this State on the mutual plan, if his available cash assets shall not exceed his liabilities as hereinbefore enumerated, in the full sum of two hundred thousand dollars in United States gold coin, such person is insolvent. (*Ibid*, § 602, as amended.)

**217.** The Commissioner must keep and preserve, in a permanent form, a full record of his proceedings, including a concise statement of the condition of each person visited or examined by him. (*Ibid*, p. 119, § 603.)

**218.** The Commissioner may employ an actuary to make the valuation of life policies, at the compensation of not exceeding

three cents for each thousand dollars of insurance, to be paid by the person or corporation for which the valuation is made. (*Ibid*, § 604.)

**219.** The Commissioner must require in advance, in United States gold coin, the following fees :

1. For filing the articles of incorporation or certified copy of articles or other certificate required to be filed in his office, thirty dollars.

2. For filing the annual statement required to be filed, twenty dollars.

3. For filing any other papers required by this chapter to be filed, five dollars.

4. For furnishing copies of papers filed in his office, twenty cents per folio.

5. For certifying copies, one dollar each.

6. For each certificate issued as provided in Section 619, the sum of five dollars. (*Ibid*, § 605.)

**220.** If the salary of the Commissioner and the expenses of his office exceeds the fees and charges collected by him, such excess must be annually assessed by the Commissioner upon all persons or corporations engaged in the business of insurance in this State, and they are severally liable therefor, pro rata, according to the amount of premiums received or receivable from risks taken in this State, respectively, during the year ending on the thirty-first day of December next preceding the assessment. The Commissioner must collect all fees and assessments, and pay monthly into the State treasury whatever amounts may be received and collected by him. He may bring actions in the name of the people of this State to enforce such collection ; and any person liable for any assessment who neglects or refuses to pay the amount of such assessment within ten days after demand thereof in writing by the Insurance Commissioner, becomes liable to pay double the amount of such assessment, and any judgment recovered in such case must be for such double amount and costs. (*Ibid*, p. 120, § 606.)

**221.** The Commissioner must cause every corporation or person, before engaging in the business of insurance, to file in his office as follows :

1. If incorporated under the laws of this State, a copy of the articles of incorporation or statement of any increase or diminution of the capital stock, certified by the Secretary of State to be a copy of that which is filed in his office.

2. If incorporated under the laws of any other State or country, a copy of the articles of incorporation, if organized or formed under any law requiring articles to be filed, duly certified by the officer having the custody of such articles ; or, if not so organized, a copy of the law, charter, or deed of settlement under which the organization is made, duly certified by the proper custodian thereof, or proved by affidavit to be a copy ; also, a certificate, under the hand and seal of the proper officer of such State or country having supervision of insurance business therein, that such corporation or company is organized under the laws of such State or country, with the amount of capital stock or assets required by this chapter.

3. If not incorporated, a certificate setting forth the nature and character of the business, the location of the principal office, the names of the persons and of those composing the associ-



ation, the amount of actual capital employed or to be employed therein, and the names of all officers and persons by whom the business is or may be managed. The certificate must be verified by the affidavit of the chief officer, secretary, agent, or manager of the association; and if there is any written articles of agreement or association, a copy thereof must accompany such certificates. (*Ibid*, § 607.)

**222.** He must require from every insurance association not formed under the laws of this State, or not incorporated, carrying on the business of insurance by an agent :

1. A certified or verified power of attorney or written authority to such agent;

2. A notice of any change of agents or in the powers of any agent, within ninety days after such change, and a certified copy of any new or further power of attorney or authority before the same is acted under;

3. When by any law, agreement, or other writing, any change is made in respect to any of the particulars set forth in the certificate on file, a certified copy of such law, agreement, or other writing, verified respectively as certificates are required to be verified; also a notice of such change before the same is acted under. (*Ibid*, p. 121, § 608.)

**223.** The Commissioner must require the name under which any corporation hereafter proposes to be formed or organized under the laws of this State for the transaction of insurance business to be submitted to him before the commencement of such business; and he may reject any name or title so submitted when the same is an interference with or too similar to one already appropriated, or likely to mislead the public in any respect; and in such case a name not liable to such objection must be chosen. (*Ibid*, § 609.)

**224.** The Commissioner must require from every corporation or person doing the business of insurance in this State a statement, verified as follows :

1. If it be made by a corporation organized under the laws of this State, by the oaths of the president and secretary, or of the vice-president and secretary thereof.

2. If made by a foreign insurance company or person, by the oath of the principal executive officer thereof.

3. If it be made by an individual or firm, by the oath of such individual or a member of the firm. (*Ibid*, p. 122, § 610, as amended.)

**225.** The statement mentioned in the preceding section must exhibit the condition and affairs of every corporation, person, firm, or individual, on the thirty-first day of December then next preceding, and must be published in a daily newspaper in the city where the principal office is located, for the period of one week; and must be filed with the Insurance Commissioner as follows :

1. If made by a person residing in, or by a company organized under the laws of this State, on or before the first day of February of each year.

2. If made by a person resident of, or by a company organized under the laws of any other State, or Territory, or district of the United States, on or before the first day of March of each year.

3. If made by a person resident of, or by a company organized under the laws of any country foreign to the United States,



on or before the first day of April of each year. (*Ibid*, § 611, *as amended*.)

**226.** Such statement, if made by fire, marine, and inland insurance companies, must show :

*First*.—The amount of the capital stock of the company.

*Second*.—The property or assets held by the company, specifying :

1. The value of the real estate held by such company.
2. The amount of cash on hand and deposited in banks to the credit of the company, specifying the same.
3. The amount of cash in the hands of agents and in course of transmission.
4. The amount of loans secured by bonds and mortgages constituting the first loan on real estate on which there is less than one year's interest due or owing.
5. The amount of loans on which interest has not been paid within one year previous to such statement.
6. The amount due the company on which judgments have been obtained.
7. The amount of stocks of this State, of the United States, of any incorporated city of this State, and of any other stocks owned by the company, specifying the amount, number of shares, and par and market value of each kind of stock.
8. The amount of stocks held as collateral security for loans, with the amount loaned on each kind of stock, its par value and market value.
9. The amount of interest due and unpaid.
10. The amount of all other loans made by the company, specifying the same.
11. The amount of premium notes on hand on which policies are issued.
12. All other property belonging to the company, specifying the same.

*Third*.—The liabilities of such company, specifying :

1. The amount of losses due and unpaid.
2. The amount of claims for losses resisted by the company.
3. The amount of losses in process of adjustment or in suspense, including all reported or supposed losses.
4. The amount of dividends declared, due, or remaining unpaid.
5. The amount of dividends declared, but not due.
6. The amount of money borrowed, and security given for the payment thereof.
7. Gross premiums (without any deduction) received and receivable upon all unexpired *fire* risks running one year or less from date of policy—reinsurance thereon at fifty per cent.
8. Gross premiums (without any deduction) received and receivable upon all unexpired *fire* risks running *more* than one year from date of policy—reinsurance thereon *pro rata* ;
9. Gross premiums (without any deductions) received and receivable upon all unexpired marine and inland navigation risks, except time risks—reinsurance thereon at one hundred per cent. ;
10. Gross premiums (without any deductions) received and receivable on marine time risks—reinsurance thereon at fifty per cent. ;

11. Amount reclaimable by the insured on perpetual fire insurance policies, being ninety-five per cent. of the premium or deposit received.

12. Reinsurance fund and all other liabilities, except capital, under the life insurance or any other special department ;

13. Unused bills of balances and notes taken in advance for premiums on open marine and inland policies, or otherwise, returnable on settlement ;

14. Principal unpaid on scrip or certificates of profits which have been authorized or ordered to be redeemed ;

15. Amount of all other liabilities of the company, specifying the same.

*Fourth.*—The incomes of the company during the preceding year, specifying :

1. The amount of cash premiums received ;

2. The amount of notes received for premiums ;

3. The amount of interest money received, specifying the same ;

4. The amount of income received from all other sources, specifying the same.

*Fifth.*—The expenditures during the preceding year, specifying :

1. The amount of losses paid ;

2. The amount of dividends paid ;

3. The amount of expenses paid, including commissions and fees to agents and officers of the company ;

4. The amount paid for taxes ;

5. The amount of all other payments and expenditures.

*Sixth.*—1. The amount of risks written during the year ;

2. The amount of risks expired during the year ;

3. The amount of risks written during the year in the State of California ;

4. The amount of premiums thereon. (*Ibid*, p. 123, § 612.)

**227.** Such statement, if made by life, health, and accident companies, must show :

*First.*—The amount of the capital stock of the company.

*Second.*—The property or assets held by the company, specifying :

1. The value of the real estate held by the company ;

2. The amount of cash on hand and deposited in banks to the credit of the company, specifying the same ;

3. The amount of loans secured by bond and mortgage on real estate, specifying the same ;

4. Amount of loans secured by pledge of bonds, stocks, or other marketable securities as collateral, specifying the same ;

5. Cash market value of all stocks and bonds owned by the company, specifying the same ;

6. Interest due the company and unpaid ;

7. Interest accrued but not due ;

8. Premium notes and loans in any form taken in payment of premiums on policies now in force ;

9. Gross amount of premiums in process of collection and transmission on policies in force ;

10. Gross amount of deferred premiums ;

11. All other assets, specifying the same.

*Third.*—*Liabilities.*—1. Claims for death losses and matured endowments, due and unpaid ;

2. Claims for death losses and matured endowments in process of adjustment or adjusted and not due ;
3. Claims resisted by the company ;
4. Amounts due and unpaid on annuity claims ;
5. Trust fund, on deposit, or net present value of all the outstanding policies, computed according to the American experience tables of mortality, with four and one-half per cent. interest ;
6. Additional trust fund on deposit, or net present value of extra and special risks, including those on impaired lives ;
7. Amount of all unpaid dividends of surplus percentages, bonuses, and other description of profits to policy-holders, and interest thereon ;
8. Amount of any other liability to policy-holders or annuitants, not included above ;
9. Amount of dividends unpaid to stockholders ;
10. Amount of National, State, and other taxes due ;
11. All other liabilities, specifying the same.

*Fourth.—Income.*—1. Cash received for premiums on new policies during the year ;

2. Cash received for renewal of premiums during the year ;
3. Cash received for the purchase of annuities ;
4. Cash received for all other premiums ;
5. Cash received for interest on loans, specifying the same ;
6. Rents received ;
7. Cash received from all other sources, specifying the same ;
8. Gross amount of notes taken on account of new premiums ;
9. Gross amount of notes taken on account of renewal premiums.

*Fifth.—Expenditures.*—1. Cash paid for losses ;

2. Cash paid to annuitants ;
3. Cash paid for lapsed, surrendered, and purchased policies ;
4. Cash paid for dividends to policy-holders ;
5. Cash paid for dividends to stockholders ;
6. Cash paid for reinsurances ;
7. Commission paid to agents ;
8. Salaries and other compensation of officers and employés, except agents and medical examiners ;
9. Medical examiners' fees and salaries ;
10. Cash paid for taxes ;
11. Cash paid for rents ;
12. Cash paid for commuting commissions ;
13. All other cash payments.

*Sixth.*—Balance sheet of premium note account.

*Seventh.*—Balance sheet of all the business of the company ;

*Eighth.*—1. Total amount of insurance effected during the year on new policies ;

2. Total amount of insurance effected in the State of California ;

3. Premiums received during the year on risks written in the State of California. (*Ibid*, p. 126, § 613.)

**228.** Mutual companies formed, existing, and doing business under an Act entitled "An Act to provide for the incorporation of mutual insurance companies," passed April twenty-sixth, eighteen hundred and fifty-one, may report their approved stock notes as

capital paid up, and such notes for all purposes must be deemed part of the paid up capital stock of such corporation. (*Ibid*, p. 129, § 614.)

**229.** The Insurance Commissioner must cause to be prepared, and furnish to each person and to each of the companies incorporated in this State, and to the attorney of each of the companies incorporated or chartered by other States and foreign governments, printed forms of the statements herein required; and he may make such changes from time to time in the form of the same as seems to him best adapted to elicit from the companies a true exhibit of their condition in respect to the several points hereinbefore enumerated. The same forms must be addressed to all persons and companies engaged in the same kind of business. (*Ibid*, § 615.)

**230.** The Insurance Commissioner must require, as a condition precedent to the transaction of insurance business in this State by any foreign corporation or company, that such corporation or company must file in his office the name of an agent, and his place of residence in this State, on whom summons and other process may be served in all actions or other legal proceedings against such corporation or company. All process so served gives jurisdiction over the person of such corporation or company. The agent so appointed and designated, shall be deemed in law a general agent, and must be the principal agent or chief manager of the business of such corporation or company in this State. Any act, statement, representation, or agreement, done or made by an agent so appointed and designated, which in any manner pertains to the business of such corporation or company, shall be deemed the act, statement, representation, or agreement of the principal, and shall have the same force and effect as if done or made by the principal. Any such foreign corporation or company shall, as a further condition precedent to the transaction of insurance business in this State, and in consideration of the privilege to transact such insurance business in this State, make and file with the Insurance Commissioner an agreement or stipulation, executed by the proper authorities of such corporation or company, in form and substance as follows: "The (giving name of corporation or company) does hereby stipulate and agree, that in consideration of the permission granted by the State of California to it, to transact insurance business in that State, that in all litigation between (giving name of corporation or company) and any citizen of the State of California, the Courts of said State shall have and maintain exclusive jurisdiction of such litigation. And it is further agreed that no action hereafter commenced in any district court of said State of California against (insert name) shall be removed or transferred therefrom to the United States Circuit Court." If in any action hereafter commenced in any district court of this State, by a citizen thereof, against a foreign corporation or company doing insurance business in said State, such corporation or company shall transfer, or cause to be transferred, such action to the United States Circuit Court, the right of such corporation or company to transact insurance business in said State shall thereupon and thereby cease and determine; and the Insurance Commissioner shall immediately revoke the certificate of such corporation or company authorizing it to do business in said State of California. (*Ibid*, § 616, as amended.)

**231.** The Commissioner must collect the sum of one thousand dollars from any corporation or company engaged in the business of



insurance for a failure to make and deposit in his office, within ninety days after being thereto requested by said Commissioner, the statements and stipulations provided for in the eighth preceding section; and the last preceding sections; and an additional penalty of two thousand dollars for each and every month thereafter that such corporation or company continues to transact the business of insurance, until such certificate, statement, and stipulations are filed; and for that purpose suit may be instituted in the name of the people of the State of California, in any court of competent jurisdiction. The Insurance Commissioner shall, immediately after the passage of this act, give due notice of its provisions to all foreign insurance corporations or companies doing or proposing to do business in this State (*Ibid*, § 617, *as amended*.)

**232.** Whenever the laws of any State of the United States require any life insurance company incorporated by or organized under the laws of this State to deposit with some officer of this State securities in trust for or for the benefit of the policy-holders of such corporation as a prerequisite to transacting business in such other State, the Commissioner of this State must receive from such life insurance corporation securities of the amount required by the laws of such other State, on deposit and in trust for the policy-holders of such corporation, the value of which must be equal to the value of interest-bearing stocks, bonds, or other securities of the United States. He must, upon the receipt of the securities, forthwith make a special deposit in the State treasury of the same, in packages marked with the name of the corporation from whom received, where they must remain as security for policy-holders in the corporation to which they respectively belong; but so long as any corporation so depositing continues solvent, he must permit such corporation to collect the interest or dividends on its securities so deposited, and from time to time to withdraw any such securities on depositing other securities in the stead of those to be withdrawn, such new securities to be of the same value mentioned in this chapter; but such securities must not be withdrawn from the State treasury unless upon the written order of the acting president and secretary of the corporation making the deposits, which order must be endorsed by the Commissioner, or upon the order and authority of some Court of competent jurisdiction. (*Ibid*, p. 130, § 618.)

**233.** Whenever any life insurance corporation, organized under the laws of this State, has deposited with the Commissioner the requisite securities, in conformity with the laws of the State in which such corporation is desirous of transacting its business, he must issue to such corporation a certificate, under his official seal, of such deposit, for each State requiring the same, which must state the items and amount of securities thus deposited, and that they are of the market value represented therein; but no securities must be estimated above the par value of the same. (*Ibid*, § 619.)

**234.** Whenever any life insurance corporation has so deposited its securities, and has paid, canceled, or reinsured all its unexpired policies, and all its liabilities under such policies are extinguished or resumed by other responsible corporations having a similar deposit with the Commissioner, then if, on application of such corporation, verified by the oath of its president and secretary, and from an examination of the books of the corporation and of its officers under oath, the Insurance Commissioner is satisfied that all of its policies are so paid, canceled, extinguished, or rein-



sured, he must deliver up to the corporation the securities deposited. (*Ibid*, § 620.)

**235.** The Commissioner must make an annual examination of the securities received by him from each life insurance corporation, and if it appear at any time that the securities deposited by any corporation amount to less than the sum required for the purposes for which the deposit was made, he must notify the corporation thereof; and unless the deficiency is made up within thirty days after notice, the Commissioner must countermand all the certificates he may have issued to the corporation under this Chapter, and give notice thereof to the officers of the several States to whom the certificate may have been transmitted; and he must also publish the notice for three weeks successively in one daily newspaper printed in the City of Sacramento and one daily newspaper printed in the City of San Francisco, at the expense of the corporation, collected by assessment. (*Ibid*, § 621.)

**236.** Whenever the laws of any State or count[r]y require of insurance companies, incorporated under the laws of this State, and having agencies in such other State or count[r]y, or of the agents thereof, any further or greater license, fees, charges, impositions, taxes, deposit of securities, statements, publications, or certificates of authority, or inflict any greater fines or penalties upon such corporations or agents than are required from similar companies or agents belonging to such State or count[r]y respectively, then and in every such case, from every company, person, or corporation of such State or count[r]y, which has or is about to establish agencies in this State, the Commissioner must, before it continues or commences to do business in this State, collect the same licenses, fees, charges, impositions, and taxes "as are imposed by such State upon agents, companies, corporations, or persons of this State doing business in such State, in excess of the licenses, fees, charges, impositions, and taxes upon agents, companies, corporations, or persons of that State," and require the same statements, publications, certificates of authority, and the same deposit of securities, as are required by the laws of such State or country of companies, persons, or corporations and agents of this State doing business in such other State or country; and the same fines and penalties must be inflicted upon companies, persons, or corporations of such other State or country, and their agents, as are inflicted by the laws of such State or country upon companies, persons or corporations of this State, and their agents, in excess of such fines and penalties inflicted upon companies, persons, or corporations belonging to such State or country respectively which may be recovered by the Insurance Commissioner in the manner provided in section five hundred and ninety-eight of this Code. (*Ibid*, p. 132, § 622, *as amended*.)

**237.** The Commissioner must require every company, association, or individual, not incorporated under the laws of this State, and proposing to transact insurance business by agent or agents in this State, before commencing such business to file in his office a bond, to be signed by the person or firm, officer or agent, as principal, with two sureties, to be approved by the Commissioner, in the penal sum of two thousand dollars for each insurance company, association, firm, or individual for whose account it is proposed to collect premiums of insurance in this State, the conditions of such bonds to be as follows:

1. That the person or firm, agent or officer named therein,

acting on behalf of the company, association, firm, or individual named therein, will pay to the treasurer of the county, or city and county, in which the principal office of the agency is located, such sum per quarter, quarterly in advance, for a license to transact an insurance business, or such other license as may be imposed by law, so long as the agency remains in the hands of the person or firm, officer, or agent named as principal in the bond;

2. That the person or firm, officer or agent will pay to the State all stamp or other duties on the gross amounts insured by them in the manner and at the time prescribed by law, inclusive of renewals on existing policies;

3. That the person, firm, agent, or corporation named therein will conform to all the provisions of the revenue and other laws made to govern them. (*Ibid*, p. 132, § 623.)

**238.** Whenever the same person, firm, officer, or agent desires to collect premiums of insurance for more than one company, association, or individual, not incorporated under the laws of this State, the Commissioner must require a separate bond, as provided in the preceding section, for each company or association so represented by such person, firm, officer, or agent. (*Ibid*, § 624.)

**239.** The Commissioner must, before the commencement of each fiscal year, as fixed in the revenue laws, furnish the Assessor of the county in which the principal office of any person or corporation doing the business of insurance is situated, all the data concerning premiums collected by, and all other necessary information in relation to the business of such person or corporation as will assist the Assessor in the performance of his duties. (*Ibid*, § 625.)

**240.** The Commissioner must require from every person, before and after engaging in the business of insurance, a full compliance with all the provisions of Title II., Part IV., Division I. of the Civil Code\* applicable thereto; and every person neglecting to comply with such requirements is subject to the fines and penalties therein prescribed. (*Ibid*, p. 134, § 626.)

**241.** All statements, estimates, percentages, payments, and calculations required by this chapter to be made, either by the Commissioner or persons engaged in the business of fire or marine insurance, must be in gold coin of the United States. (*Ibid*, § 627.)

**242.** The annual salary of the Insurance Commissioner is three thousand dollars. (*Ibid*, § 628.)

**243.** The annual salary of the Deputy of the Commissioner of Insurance is eighteen hundred dollars. (*Ibid*, § 629.)

**244.** The Commissioner may procure rooms for his office, at a rent not to exceed seventy-five dollars per month, and may provide a suitable safe and furniture therefor; he may also provide stationery, fuel, printing, and other conveniences necessary for the transaction of the business of his office. All expenditures authorized in this section must be audited by the Board of Examiners and paid in the same manner as the salary of the Commissioner. (*Ibid*, § 630.)

**245.** The Commissioner must keep his office in the City of San Francisco. (*Ibid*, § 631.)

**246.** The Commissioner must execute an official bond in the sum of ten thousand dollars. (*Ibid*, p. 135, § 632.)

**247.** No person shall, in this State, act as the agent or solicitor of any life insurance company doing business in this State,

\* See Insurance Corporations, pp. 37, 38.

until he has produced to the Commissioner, and filed with him, a duplicate power of attorney from the company or its authorized agent, authorizing him to act as such agent or solicitor. Upon filing such power the Commissioner shall issue a license to him to act as such agent or solicitor for such company, if such company has received a certificate of authority from such Commissioner to do business in this State; *Provided*, that if such agent or solicitor shall, within the twelve months next preceding, have been in the employ of any other company or its authorized agent, as such agent or solicitor, he must produce to the Commissioner written evidence from such employer that all moneys he may have collected for such company or agent have been paid over to said company or agent. Such license shall continue in force for twelve months from the date thereof, but may be and shall be sooner revoked upon application of the company or its authorized agent. Such license may be renewed from time to time, for an additional period of twelve months on production by the holder to the Commissioner of a certificate from the company that such person's authority as such agent or solicitor continues. For each such license, or renewal thereof, the Commissioner shall receive the sum of one dollar. The Commissioner shall keep an alphabetical list of the names of persons to whom such license shall be issued, with the date of the license and renewal, and the name of the company for which such person is working. If any person shall fraudulently assume to be an authorized agent or solicitor of any life insurance company, and thus procure or attempt to procure applications, or receive or attempt to obtain money for premiums, he shall be guilty of a misdemeanor. If any person shall, under a false or fictitious name, procure or attempt to procure a license to act as agent or solicitor of any life insurance company, he shall be guilty of a misdemeanor. (*Ibid*, § 633 of amendments.)

**248.** Every person who in this State procures, or agrees to procure, any insurance for a resident of this State, from any insurance company not incorporated under the laws of this State, unless such company or its agent has filed the bond required by the laws of this State relating to insurance, is guilty of a misdemeanor. (*Penal Code*, 1872, p. 105, § 439.)

## ARSON AND INCENDIARISM.

**249.** Arson is the willful burning of a building with intent to destroy it. (*Penal Code*, 1872, p. 107, § 447.)

**250.** Any house, edifice, structure, vessel, or other erection, capable of affording shelter for human beings, or appurtenant to or connected with an erection so adapted, is a "building," within the meaning of this chapter. (*Ibid*, § 448.)

**251.** Any building which has usually been occupied by any person lodging therein at night is an "inhabited building" within the meaning of this chapter. (*Ibid*, p. 108, § 449.)

**252.** The phrase "night time," as used in this chapter, means the period between sunset and sunrise. (*Ibid*, § 450.)

**253.** To constitute a burning within the meaning of this chapter, it is not necessary that the building set on fire should have been destroyed. It is sufficient that fire is applied so as to take effect upon any part of the substance of the building. (*Ibid*, § 441.)

**254.** To constitute arson, it is not necessary that a person other than the accused should have had ownership in the building

set on fire. It is sufficient that at the time of the burning another person was rightfully in possession of, or was actually occupying such building, or any part thereof. (*Ibid*, § 452.)

**255.** Arson is divided into two degrees. (*Ibid*, § 453.)

**256.** Malicious burning in the night-time an inhabited building, in which there is at the time some human being, is arson in the first degree. All other kinds of arson are of the second degree (*Ibid*, § 454.)

**257.** Arson is punishable by imprisonment in the State Prison, as follows:

1. Arson in the first degree, for not less than two years;

2. Arson in the second degree, for not less than one nor more than ten years. (*Ibid*, § 455.)

**258.** Every person who willfully and maliciously burns any bridge exceeding in value fifty dollars, or any building, snowshed, or vessel, not the subject of arson, or any stock of grain of any kind, or of hay, or any growing or standing grain, grass or tree, or any fence, not the property of such person, is punishable by imprisonment in the State Prison, for not less than one nor more than ten years. (*Ibid*, p. 140, § 600.)

**259.** Every person who willfully burns, or in any other manner injures or destroys any property which is at the time insured against loss or damage by fire or by any other casualty, with intent to defraud or prejudice the insurer, whether the same be the property of or in possession of such person or of any other, is punishable by imprisonment in the State Prison, not less than one nor more than ten years. (*Ibid*, p. 128, § 548.)

### FRAUD AND FALSE SWEARING.

**260.** Every person who presents or causes to be presented any false or fraudulent claim, or any proof in support of any such claim, upon any contract of insurance for the payment of any loss, or who prepares, makes, or subscribes any account, certificate of survey, affidavit, or proof of loss, or other book, paper, or writing with intent to present or use the same, or to allow it to be presented or used in support of any such claim, is punishable by imprisonment in the State Prison, not exceeding three years, or by a fine not exceeding one thousand dollars, or by both. (*Penal Code*, 1872, p. 129, § 549.)

### EMBEZZLEMENT.

**261.** Embezzlement is the fraudulent appropriation of property by a person to whom it has been intrusted. (*Penal Code*, 1872, p. 120, § 503.)

**262.** Every officer, director, trustee, clerk, servant, or agent of any association, society, or corporation (public or private), who fraudulently appropriates to any use or purpose not in the due and lawful execution of his trust, any property which he has in his possession or under his control by virtue of his trust, or secretes it with a fraudulent intent to appropriate it to such use or purpose is guilty of embezzlement. (*Ibid*, § 504.)

**263.** Every person guilty of embezzlement is punishable in the manner prescribed for feloniously stealing property of the value of that embezzled; and where the property embezzled is an evidence of debt or right of action, the sum due upon it, or secured to be paid by it, shall be taken as its value. (*Ibid*, p. 122, § 514.)

**264.** For General Provisions relating to Corporations, see Civil Code, 1872, pp. 60, 91, and amendments thereto.



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# INSURANCE STATUTES OF CANADA.

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*Revised by Prof. J. B. Cherriman, Superintendent of Insurance.*

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## FIRE AND INLAND MARINE INSURANCE.

1. The following terms and expressions whenever used in this act, unless it be otherwise specially provided, or there be something in the context repugnant to or inconsistent with such construction, shall be construed and interpreted as hereinafter mentioned, that is to say :

1. "Canadian Company" means a company incorporated in Canada, for purposes of fire or inland marine insurance business or both, in Canada, and having its head office therein, and entitled under the second section of this Act to receive a license as such.

2. "Foreign Company" means a company, incorporated or duly established according to the laws of any foreign country (including the United Kingdom), for purposes of fire or inland marine insurance business or both, and entitled under the second section of this act to receive a license as such in the Dominion of Canada.

3. "Agent" means the chief agent of the company in Canada, named as such in the power of attorney hereinafter referred to, by whatever name he may be designated.

4. "Chief Agency" means the principal office or place of business of the company in Canada. (*Act 38 Victoria, 1875, chap. 20, § 1.*)

2. This act shall apply only to companies heretofore incorporated by any act of the Legislature of the late Province of Canada, or by any act of the Legislature of any of the Provinces of Canada, and which upon the day of the passing of this act, were also licensed under act of the Parliament of Canada to transact business of Insurance in Canada, and also to any company heretofore or which may hereafter be incorporated by act of Parliament of Canada, and to any foreign insurance company as hereinbefore defined; and it shall not be lawful for the Minister of Finance to license any other company than those in this section above mentioned, and no other company than those above mentioned shall do any business of fire or inland marine insurance throughout the Dominion of Canada; but nothing herein contained shall prevent any insurance company incorporated by or under any act of the Legislature of the late Province of Canada, or of any Province of the Dominion of Canada, from carrying on any business of insurance, within the limits of the late Province of Canada, or of such Province only, according to the powers granted to such insurance company within such limits as aforesaid, without such license as hereinafter mentioned. (*Ibid, § 2.*)

**3.** Except such insurance companies as are mentioned in the proviso to the next preceding section, or companies transacting in Canada ocean marine business exclusively (all insurance above the harbor of Montreal to be held to be inland insurance), it shall not be lawful for any insurance company to accept any risk or issue any policy of fire or inland marine insurance, or receive any premium or transact any business of fire or inland marine insurance in Canada, or to prosecute or maintain any suit, action, or proceeding, either at law or in equity, or to file any claim in insolvency, relating to such business, without first obtaining a license (as hereinafter provided for) from the Minister of Finance to carry on business in Canada. (*Ibid*, § 3.)

**4.** The license shall be in such form as may be, from time to time, determined by the Minister of Finance, and shall specify the business to be carried on by the company, and it shall expire on the thirty-first day of March in each year; but shall be renewable from year to year. (*Ibid*, § 4.)

**5.** The Minister of Finance so soon as the company applying for the same has deposited in the hands of the Receiver-General the securities hereinafter mentioned, and has otherwise conformed to the requirements of this act, shall cause to be issued such license as aforesaid. (*Ibid*, § 5.)

**6.** Canadian companies shall, before the issue of such license, deposit the sum of fifty thousand dollars with the Receiver-General in securities as hereinafter named. Foreign companies shall, before the issue of such license, deposit for the benefit of policy-holders in Canada the sum of one hundred thousand dollars with the Receiver-General in such securities as are named hereinafter. All such deposits may be made by any company in securities of the Dominion of Canada, or in securities issued by any of the Provinces in the Dominion of Canada, and by any company incorporated in the United Kingdom in securities of the United Kingdom, and by any company incorporated in the United States in securities of the United States; and the value of such securities shall be estimated at their market value at the time when they are so deposited; if any securities other than those above named are offered as a deposit, they may be accepted, at such valuation and on such conditions as the Treasury Board may direct; and if the market value of any of the securities which have been deposited by any company shall decline below that at which they were deposited, the Minister of Finance may call upon the company to make a further deposit, so that the market value of all the securities deposited by any company shall be equal to the amount which they are required to deposit by this Act. (*Ibid*, § 6.)

**7.** Any company licensed under this act may nevertheless at any time or times deposit in the hands of the Receiver-General any further or other sum or sums of money or securities beyond the sum required to be deposited, and any such further sum or sums of money or securities therefor so deposited in the hands of the Receiver-General shall be held by him subject to, and to be dealt with according to the provisions of this act in respect to the original sum required to be deposited by such company, as if the same had been part of such original deposit; and no part of such additional deposit shall be withdrawn except with the sanction of the Governor-General on the Report of the Treasury Board. (*Ibid*, § 7.)

**8.** If from the annual statements, or after examination of the

affairs and condition of any company, it appears that the reinsurance value of all its risks outstanding in Canada, together with any other liabilities in Canada, exceed its assets in Canada, including the deposit in the hands of the Receiver-General, then the company shall be called upon by the Minister of Finance to make good the deficiency at once, and on failure so to do its license shall be canceled. (*Ibid*, § 8.)

9. Except in cases with respect to which it may be otherwise provided by the Treasury Board, so long as any company's deposit is unimpaired and no notice of any final judgment or order to the contrary is served upon the Minister of Finance or Receiver-General, the interest upon the securities forming the deposit shall be handed over to the company as it falls due. (*Ibid*, § 9.)

10. Every company shall, before the issue of a license to it, file in the Department of the Minister of Finance a certified copy of the charter, act of incorporation, or articles of association of the company, and also a power of attorney from the company to its head officer or agent in Canada, under the seal of the company (if it has a seal), and signed by the president and secretary or other proper officer thereof, verified by their oath, and further corroborated on oath by the head officer or chief agent of such company, or by some person cognizant of the facts necessary to its verification; which power of attorney must declare at what place in Canada the head office or chief agency of the company is or is to be established, and must expressly authorize such attorney to receive process in all suits and proceedings against such company in Canada for any liabilities incurred by the company therein, and must declare that service of process for or in respect of such liabilities at such office or chief agency, or personally on such attorney at the place where such head office or chief agency is established, shall be legal and binding on the company to all intents and purposes whatsoever; and also a statement of the condition and affairs of such company on the thirty-first day of December then next preceding, or up to the usual balancing day of the company (provided that such day shall not be more than twelve months before the filing of the statement), in such form as may be required by the Minister of Finance.

Whenever any company licensed under this act changes its chief agent or chief agency in Canada, such company shall file a power of attorney as hereinbefore mentioned, containing any such change or changes in such respect, and containing a similar declaration as to service of process as hereinbefore mentioned.

Duplicates of all such documents, duly verified as aforesaid, shall be filed in the office of either of the superior courts of law or equity in the Province in which its head office or chief agency is located; or if the chief agency be in the Province of Quebec, with the Prothonotary of the superior court of the district wherein such chief agency is established. (*Ibid*, § 10.)

11. After the certified copies referred to in the last preceding section, and such power of attorney are filed as aforesaid, any process in any suit or proceeding against such company, for any liabilities incurred in Canada, may be served on the company at its chief agency, and all proceedings may be had thereupon to judgment and execution in the same manner and with the same force and effect as in proceedings in any civil suit in Canada. (*Ibid*, § 11.)

12. Every company obtaining such license as aforesaid shall



forthwith give due notice thereof in the *Canada Gazette*, and in at least one newspaper in the county, city, or place where the head office or chief agency is established, and shall continue the publication thereof for the space of four weeks; and the like notice shall be given when such company cease, or notify that they intend to cease, to carry on business in Canada, for the space of three calendar months. (*Ibid*, § 12.)

**13.** The Minister of Finance shall cause to be published quarterly in the *Canada Gazette* a list of companies licensed under this act, with the amount of deposits made by each company; and upon any new company being licensed, or upon the license of any company being withdrawn in the interval between two such quarterly statements, he shall publish a notice thereof in the *Canada Gazette* for the space of four weeks. (*Ibid*, § 13.)

**14.** Any person who delivers any policy of insurance or collects any premium or transacts any business of insurance on behalf of any company as aforesaid, without such license as aforesaid, or if such license has been withdrawn without the renewal thereof, or without filing the copy of the charter, act of incorporation, or articles of association of the company, and a power of attorney or a renewal thereof in the event of any change as hereinbefore provided, shall be liable to a penalty of one thousand dollars for each such contravention of this act; which penalty may be sued for and recovered on information filed in the name of the Attorney-General of Canada; and one-half of the said penalty, when recovered, shall be paid to the Crown, and the other half of the said penalty to the informer: and in case of nonpayment of such penalty and costs within one month after such judgment, the person so offending shall be liable to imprisonment in any jail or prison for a period not exceeding six months, in the discretion of the court wherein he is convicted. (*Ibid*, § 14.)

**15.** Whenever any company fails to make the deposits under this act at the time required, or whenever written notice has been served on the Minister of Finance of any undisputed claim arising from loss insured against in Canada, remaining unpaid for the space of sixty days after being due, or of a disputed claim after final judgment in a regular course of law and tender of a legal valid discharge, so that the amount of securities representing the deposit of such company is liable to be reduced by sale of any portion thereof, the license of the said company shall *ipse facto* be null and void, and shall be deemed to be withdrawn: but such license may in the case last mentioned be renewed, and the company may again transact business, if within sixty days after notice to the Minister of Finance of the company's failure to pay any undisputed claim, or the amount of any final judgment as provided in this section, undisputed claims or final judgments upon or against the company in Canada are paid and satisfied, and the company's deposit is no longer liable to be reduced below the amount required by this act. (*Ibid*, § 15.)

**16.** Any company shall be deemed insolvent upon failure to pay any undisputed claim arising, or loss insured against, in Canada, upon any policy held in Canada for the space of sixty days after being due, or, if disputed, after final judgment and tender of a legal valid discharge, and (in either case) after notice thereof to the Minister of Finance. In case of the insolvency of any company all deposits of such company, held by the Receiver-General for policy-

holders in Canada, shall be applied *pro rata* towards the payment of all claims duly authenticated against such company, upon or in respect of policies issued to policy-holders in Canada; and the distribution of the proceeds of such deposit may, if applied for in the Province of Ontario, or of Nova Scotia, or of New Brunswick, or of British Columbia, or of Prince Edward Island, be made by order in chancery, or in equity; or, if applied for in the Province of Quebec or Manitoba, may be made by judgment or order of distribution of the superior court within the district where the chief agency is situated; *Provided*, that in any case when a claim for loss is by the terms of the policy payable on proof of such loss, without any stipulated delay, the notice to the Minister of Finance under this section shall not be given until after the lapse of sixty days from the time when the claim becomes due. (*Ibid*, § 16.)

**17.** Upon the insolvency of any company, such court as aforesaid having jurisdiction in the province (or sitting in the district, if such province be the Province of Quebec), where the chief agency in Canada of such company is situated, shall appoint an assignee or assignees, who may be an officer or officers of such court, who shall forthwith call upon the company to furnish a statement of all its outstanding policies in Canada, and upon all such policy-holders to file their claims; and upon the filing of the claims before the assignees, the parties interested shall have the right of contestation thereof, and the right of appeal from their decision to such court as aforesaid, according to the practice of such court; and in case of any insurance company becoming insolvent, the parties insured in Canada shall be entitled to claim for a part of the premium paid, proportionate to the unexpired period of their policies respectively, and such return premium shall rank with judgments obtained and claims accrued, in the distribution of the assets; and upon the completion of the schedule to be prepared by the assignees, of all judgments against the company upon such policies held in Canada, and of all claims for reinsurance or surrender of the policy as aforesaid, the court having jurisdiction, as above provided, shall cause the securities held by the Receiver-General for such company, or any part of them, to be sold in such manner and after such notice and formalities as the Court may appoint, and the proceeds thereof, after paying expenses incurred, shall be distributed *pro rata* amongst the claimants according to such schedule, and the balance, if any, shall be surrendered to the company. But if any loss is sustained or any claim arises after the statement of such outstanding policies has been obtained from the company, as hereinbefore provided, and before the final order of the court for the distribution of the proceeds of the securities, or if the proceeds of the securities are not sufficient to cover in full all claims recorded in the schedule, such policy-holders shall not be barred from any recourse they may have either in law or equity against the company issuing the policy, other than that for a share in distribution of the proceeds of the securities held for such company by the Receiver-General (*Ibid*, § 17.)

**18.** When any company has ceased to transact business in Canada, and has given written notice to that effect to the Minister of Finance, it must insure, on behalf of its Canadian policy-holders, all their outstanding risks, in some company or companies licensed in Canada, or obtain the surrender of the policies, and its securities shall not be delivered to the company until the same is done to the satisfaction of the Minister of Finance:

Upon making application for its securities, the company must file with the Minister of Finance a list of all Canadian policy-holders who have not been so reinsured or have not surrendered their policies; and it must at the same time publish in the *Canada Gazette* a notice that it has applied to Government for the release of its securities on a certain day, not less than three months after the date of the notice, and calling upon its Canadian policy-holders opposing such release to file their opposition with the Minister of Finance on or before the day so named; and after that day, if the Minister of Finance, with concurrence of the Treasury Board, is satisfied that the company has ample assets to meet its liabilities to Canadian policy-holders, all the securities may be released to it by an order of the Governor in Council, or a sufficient amount of them may be retained to cover the value of all risks respecting which opposition has been filed; and the remainder may be released, and thereafter from time to time, as such opposing risks may lapse, or proof may be adduced that they have been satisfied, further releases may be made on the authority aforesaid.

And after a company has ceased to transact business in Canada after the notice hereby required, and its license has in consequence been withdrawn, such company may nevertheless pay the losses arising upon policies not reinsured or surrendered, as if such license had not been withdrawn. (*Ibid*, § 18.)

**19.** No fire policy shall be issued for or extend over a longer period than three years. (*Ibid*, § 19.)

**20.** It shall be the duty of the president, vice-president, or managing director, and secretary or manager of each Canadian company, to prepare annually under their own oath, on the first day of January or within one month thereafter, a statement of the condition and affairs of such company on or after the thirtieth of November then next preceeding; exhibiting the facts and items in the form given in the following schedule, and to cause such statement to be deposited in the office of the Minister of Finance; such statement to be sworn to before some person duly authorized to administer oaths in any legal proceeding.

#### SCHEDULE—DETAILS OF ANNUAL STATEMENTS REQUIRED.

A list of the stockholders with the amount subscribed for, the amount paid thereon, and the residence of each stockholder.

The property or assets held by the company, specifying:

1. The value (as nearly as may be) of the real estate held by such company.

2. The amount of cash on hand and deposited in banks to the credit of the company, specifying in what banks the same are deposited, with amounts separately.

3. The amount of cash in the hands of agents.

4. The amount of loans secured by bonds and mortgages constituting either a first or second lien on real estate in separate schedules.

5. The amount of loans on which interest has not been paid within one year previous to such statement, with a schedule thereof.

6. The amounts due the company for which judgments have been obtained.

7. The amount of Canadian stocks held by the company, and of any other stock owned by the company, specifying in detail the amount, number of shares, and par and market value of each kind of stock owned by the company absolutely.

8. The amount of stocks held as collateral security for loans, with the amount loaned on each kind of stock, its par and market value.

9. The amount of assessments on stock and premium notes, paid and unpaid.

10. The amount of interest actually due and unpaid; also the amount of interest accrued and unpaid.

11. The amount of premium notes on hand on which policies are issued, with amount paid thereon; also bills receivable held by the company and considered good, the amounts of each class separately, and the amounts on each class overdue.

12. The amount of all other property belonging to the company, with a detail thereof.

The liabilities of the company, specifying:

1. The amount of losses due and yet unpaid.

2. Amount of losses adjusted, but not due.

3. Amount of losses incurred during the year, including those claimed, not yet adjusted, and of those reported to the company upon which no action has been taken; the amounts of each class separately, carrying out the totals in one sum.

4. Amount of claims for losses resisted by the company, distinguishing those in suit.

5. Amount of dividends declared and due, and remaining unpaid.

6. Amount of dividends declared, but not yet due.

7. Amount of money borrowed, and security given for payment thereof; stating each loan separately, and the interest paid therefor.

8. The amount of unearned fire premiums.

9. Amount of unearned inland marine premiums.

10. Amount received for marine (ocean) premiums, not marked off.

11. Amount of all other claims against the company, with a detailed statement thereof.

12. Aggregate amount of all unpaid losses, claims, and liabilities whatsoever, except capital stock.

Income of the company, specifying:

1. Amount of cash premiums received, less reinsurance.

2. Amount of notes received for premiums, less reinsurance.

3. Amount of interest money received.

4. Amount of income received from all other sources.

Expenditures of the company, specifying:

1. Amount paid for losses which occurred prior to the first day of January last, deducting savings and salvage, which losses were estimated in the last statement at \$

Amount paid for losses which occurred during the year, deducting savings and salvage.

Total amount actually paid during the year for losses in each branch, in separate columns.

2. Amount and rate of dividends paid during the year.

3. Amount of expenses paid during the year, including commissions and fees to agents and officers of the company.



4. Amount of all other payments and expenditures, with details thereof.

Miscellaneous:

1. Gross amount of risks taken during the year, original and renewal, in each branch of the company's business separately; deducting amount of reinsurance effected thereon in each branch separately;

2. And amount of risks in force at end of the year in each branch of the company's business, deducting reinsurance; and showing at foot, in separate columns, the net amount of risks then in force.

Form of declaration to accompany the statement.

Province of

County of

President, and

Secretary of

Company being duly sworn, depose and say, and each for himself says, that they are the above-described officers of the said company, and that on the \_\_\_\_\_ day of \_\_\_\_\_ last all the above-described assets were the absolute property of the said company, free and clear from any liens or claims thereon, except as above stated, and that the foregoing statement, with the schedules and explanations hereunto annexed and by them subscribed, are a full and correct exhibit of all the liabilities, and of the income and expenditure, and of the general condition and affairs of said company, on the said \_\_\_\_\_ day of \_\_\_\_\_ last, and for the year ending on that day, according to the best of their information, knowledge and belief respectively.

*Signatures.*

Subscribed and sworn to before me, this \_\_\_\_\_ day of \_\_\_\_\_  
A. D. 187 .

The Minister of Finance may, from time to time, make such changes in the form of such statements as shall seem to him best adapted to elicit from the companies a true exhibit of their condition in respect to the several points hereinbefore enumerated. (*Ibid*, § 20.)

**21.** All foreign companies shall make annual statements of their condition and affairs under oath of their chief agent, and furnish the same to the Minister of Finance—of their Canada business, in the same form and manner as required of Canadian companies, in the month of January in each year—and of their general business, in such form and to such date as they may be required by law to furnish to the Government of the country in which their head office is situate, in a separate schedule attached. The blank forms of the statements of the Canada business to be furnished in duplicate by the Finance Department. (*Ibid*, § 21.)

**22.** Any violation of either of the two next preceding sections, shall subject the company violating the same to a penalty of five hundred dollars for each violation, and of the additional sum of one hundred dollars for each month during which any such company shall neglect to make such publication or to file such affidavits and statements as are therein required. If such penalties are not paid, the Minister of Finance, with the concurrence of the Treasury Board,

may order such companies license to be suspended or canceled, as may be deemed expedient. (*Ibid*, § 22.)

**23.** For the efficient administration of the insurance business in the Dominion of Canada, and to enforce strictly the provisions of this act, with the necessary details resulting therefrom, the Governor in Council may appoint an officer, to be called the Superintendent of Insurance, acting under the instructions of the Minister of Finance, whose duty it shall be to examine and report to the said Minister of Finance, from time to time, upon all matters connected with insurance, as carried on by the several companies licensed to do business in Canada, or required by this act to make returns of their affairs; such Superintendent may be appointed at a salary not exceeding four thousand dollars, per annum; and it shall be lawful to provide from time to time such assistance as may be found necessary; the main features of his duties as to which matters shall be as follows:

1. The Superintendent of Insurance shall keep a record of the several documents to be filed by each company in the Superior Courts of Canada, under the tenth section of this act; and he shall also enter in a book under the heading of each company, the securities deposited on its account with the Receiver-General, naming in detail the several securities, their par value, and value at which they are received as deposit, and before the issue of any new license, or the renewal of any license, he shall in each case make a report to the Minister of Finance that the requirements of the law have been complied with, and that from the statement of the affairs of the company it is in a condition to meet its liabilities; and he shall keep a record of the licenses as they are issued.

2. The Superintendent of Insurance shall visit the head office of each company in Canada at least once in every year, and shall examine carefully the statements of the condition and affairs of each company, as required under this act, and report thereon to the Minister of Finance as to all matters requiring his attention and decision. The Superintendent of Insurance shall prepare for the Minister of Finance from the said statements an annual report, showing the full particulars of each company's business, together with an analysis of each branch of insurance, with each company's name; giving items, classified from the statements made by each company. The Minister of Finance shall lay the Superintendent's annual report before Parliament within thirty days after the commencement of each session thereof.

3. If the Superintendent of Insurance, after a careful examination into the condition and affairs and business of any company licensed to transact business in Canada, from the annual or other statements furnished by such company to the Minister of Finance, or for any other cause, deems it necessary and expedient to make a further examination into the affairs of such company, and so reports to the Minister of Finance—the Minister of Finance may at his discretion instruct the Superintendent of Insurance to visit the office of such company, to thoroughly inspect and examine into all its affairs, and to make all such further inquiries as are necessary to ascertain its condition and ability to meet its engagements, and whether it has complied with all the provisions of this act applicable to its

transactions. And it shall be the duty of the officers or agents of such company to cause their books to be open for the inspection of the Superintendent of Insurance, and otherwise to facilitate such examination so far as it may be in their power; and for that purpose the said Superintendent shall have power to examine under oath the officers or agents of such company relative to its business. A report of all companies so visited by the Superintendent shall be entered in a book kept for that purpose, with notes and memoranda showing the condition of each company after such investigation, and a special report communicated in writing to the Minister of Finance, stating the Superintendent's opinion as to its standing and financial position, and all other matters desirable to be made known to the Minister of Finance. If it appears to the Superintendent that the assets of any company are insufficient to justify its continuance of business on the guarantee basis of sections six and eight, or unsafe for the public to effect insurance with it, he shall make a special report on the affairs of such company to the Minister of Finance; and if the Minister, after a full consideration of the report, and a reasonable time being given to the company to be heard by him, after such further inquiry and investigation (if any) as he may see proper to make, reports to the Governor in Council that he agrees with the said Superintendent in the opinion so expressed in his report, then, if the Governor in Council also concurs in such opinion, an order in Council may issue suspending or canceling the license of such company, which shall then, during such suspension or cancellation, be held to be unlicensed; and after the notification of the suspension or canceling of such license in the *Canada Gazette*, any person delivering any policy of insurance, or collecting any premium, or transacting any business of insurance, on behalf of such company, shall be liable to the penalties provided for by the fourteenth section of this act.

4. The Superintendent of Insurance, or officers under him, shall not be interested as shareholders, directly or indirectly, with any insurance company doing business in Canada, or licensed under this act.

5. Towards defraying the expenses of the office of the Superintendent of Insurance, a sum not exceeding eight thousand dollars shall be annually contributed by the companies licensed under this act, which sum shall be assessed *pro rata* upon the gross premiums received by each during the preceding year, such sum to be paid upon the issue of the annual license.

6. The Superintendent of Insurance shall also collect and pay to the Receiver-General the following fees:

For recording and filing the several documents required of each company, under the tenth section of this act..	\$10 00
For change of attorney under the said section.....	5 00
For license to do business.....	5 00
For every renewal of such license.....	2 00
For annual statements of each company.....	5 00

—(*Ibid*, § 23.)

24. After the passing of this act the act of the Parliament of Canada, passed in the thirty-first year of Her Majesty's Reign, intituled "*An Act respecting Insurance Companies*," and the act passed in the thirty-fourth year of Her Majesty's Reign, intituled,

"*An Act to amend the Act respecting Insurance Companies,*" are hereby repealed, in so far as they relate to fire and inland marine insurance, saving nevertheless all licenses which may have been thereunder issued, until the thirty-first day of March, in the year 1876 (at which date they shall expire), and the right of companies so licensed to continue business during the existence of the same; and saving also any act done, or right, or right of action existing, accruing, accrued, or established, or any proceedings commenced, or any offense committed, or any penalty or forfeiture incurred, before the passing of this act, with respect to all which the said acts shall remain in force. (*Ibid*, § 24.)

## COMPANIES OTHER THAN FIRE OR INLAND MARINE.

**25.** In this act and the act hereby amended, the expression "Canadian Policy," or "Policies in Canada," means all policies issued by any company licensed to transact the business of insurance in Canada, in favor of any person or party resident in Canada at the time when such policies were issued, and also as regards fire insurance, any policy of insurance on any property in Canada. (*Act 34 Victoria, 1871, Chap. 9, § 1.*)

**26.** The seventh section of the act respecting insurance companies, passed in the thirty-first year of Her Majesty's reign, and chaptered forty-eight, is hereby repealed, and the following section is substituted therefor, and shall hereafter be read as the seventh section of the said act:

"7. All such deposits may be made by any company in securities of the Dominion of Canada, or in securities issued by any of the Provinces in the Dominion of Canada, and by any company incorporated in Great Britain, in securities of the United Kingdom, and by any company incorporated in the United States, in securities of the United States; and the value of such securities shall be estimated at their market value at the time when they are so deposited; if any securities other than those above named are offered as a deposit, they may be accepted, at such valuation and on such conditions as the Treasury Board may direct; and if the market value of any of the securities which have been deposited by any company shall decline below that at which they were deposited, the Treasury Board may call upon the company to make a further deposit, so that the market value of all the securities deposited by any company shall be equal to the amount which they are required to deposit by this act."

And wherever it is provided in the aforesaid act that a company shall deposit any amount in money with the Receiver-General, it shall be held to imply that the company shall deposit securities with the Receiver-General equivalent in value to such amount; and wherever it is provided that the Receiver-General shall invest in Dominion stock the interest accrued on any securities deposited by a company, it shall be held to imply that he shall pay such interest to the company upon its depositing with him securities of equivalent value. (*Ibid*, § 2.)

**27.** If any company shall have made a deposit in cash, as provided by the seventh section of the Act 31 Victoria, chapter 48, and such deposit has been invested in trust for the company in Dominion stock at par, such stock shall for the purposes of the next pre-



ceding section be reckoned at par; and if such company shall thereafter withdraw from business in Canada, or become insolvent, the amount so invested in Dominion stock shall be repaid to the company, or applied in liquidation of the claims against it, at par. (*Ibid*, § 3.)

**28.** Upon the insolvency of any company, the court having jurisdiction in the Province (or sitting in the district if such Province be the Province of Quebec) where the chief agency in Canada of such company is situated, shall appoint an assignee or assignees, who shall forthwith call upon the company to furnish a statement of all its outstanding policies in Canada, and upon all policy-holders to file their claims; and upon the filing of the claims before the assignees, the parties interested shall have the same right of contestation, and the assignee shall have the same powers in respect thereof, subject to the same right of appealing from their decision to the same tribunals, as is provided for in similar cases by the Insolvent Act of 1869; and in the case of a life insurance company the assignee or assignees may insure all outstanding Canadian policies with some company licensed to transact business in Canada, advertising for tenders to that effect; and if the amount of the deposit be not enough so to reinsure all policies to the full amount, and to meet all judgments against the company, and claims accrued, the assignees may insure them for such a percentage of the risks as the amount at their disposal may admit of, such reinsurance ranking *pro rata* with judgments and claims accrued; and the court having jurisdiction, as above provided, may order a sufficient amount of the securities to be sold to meet such reinsurance. If the assignees are unable to reinsure, in full or in part, all outstanding Canadian policies as a whole, they shall appoint a competent actuary, and shall ascertain the reinsurance value of each policy according to the tables which, on the report of the Treasury Board, may be sanctioned by the Governor in Council for that purpose; and upon the completion of the schedule to be prepared by the assignees of all judgments against the company and of all claims for reinsurance or for surrender of the policy as aforesaid, the court having jurisdiction, as above provided, shall cause the securities held by the Receiver-General for such company, or any part of them, to be sold in such manner and after such notice and formalities as the court may appoint, and the proceeds thereof, after paying the expenses incurred, shall be distributed *pro rata* amongst the claimants according to such schedule, and the balance, if any, shall be surrendered to the company. But if any loss shall be sustained or any claim shall arise after the statement of outstanding policies has been obtained from the company, as hereinbefore provided, and before the final order of the court for the distribution of the proceeds of the securities, or if the proceeds of the securities shall not be sufficient to cover in full all claims recorded in the schedule, the policy-holders shall not be barred from any recourse they may have either in law or equity against the company issuing the policy, other than that for a share in the distribution of the proceeds of the securities held for such company by the Receiver-General. (*Ibid*, § 4.)

**29.** When any company has ceased to transact business in Canada, and has given the notice required by this act to that effect, before its securities can be given up to it it must insure on behalf of its Canadian policy-holders all outstanding risks in some company or companies licensed in Canada, or obtain the surrender of

the policies. Upon making application for its securities, the company must file with the Minister of Finance a list of all Canadian policy-holders who have not been so insured or have not surrendered their policies, and it must at the same time publish in the *Canada Gazette* a notice that it has applied to Government for the release of its securities on a certain day, not less than thirty days after the date of the notice, and calling upon its Canadian policy-holders opposing such release to file their opposition with the Minister of Finance on or before the day so named; and after that day, if the Treasury Board is satisfied that the company has ample assets to meet its liabilities, all the securities may be released to it by an order of the Governor in Council, or a sufficient amount of them may be retained to cover the value of all risks respecting which opposition has been filed, and the remainder may be released, and thereafter, from time to time, as such opposing risks may lapse or proof may be adduced that they have been satisfied, further releases may be made on the authority aforesaid; and after a company has ceased to transact business in Canada after the notice hereby required, and its license has in consequence been withdrawn, such company may nevertheless continue to receive the premiums coming due on policies not reinsured or surrendered, and may pay the losses arising thereon as if such license had not been withdrawn. (*Ibid*, § 5.)

**30.** This act shall come into force on the first day of July, in the present year 1871; and the provisions of this act shall apply to all insurance companies which may have become insolvent within the twelve months prior to the date of the passing of this act. (*Ibid*, § 6.)

**31.** The following terms and expressions whenever used in this act, unless it be otherwise specially provided, or there be something in the context repugnant to, or inconsistent with such construction, shall be construed and interpreted as hereinafter mentioned, that is to say:

“Company” means and includes any corporation, and any society or association, incorporated or unincorporated, and any partnership carrying on the business of insurance other than that of marine insurance only;

“Agent” means the principal agent of the company in Canada, named as such in the power of attorney hereinafter referred to, by whatever name he may be designated;

“Chief agency” means the principal office or place of business of the company in Canada. (*Act 31 Victoria, 1868, Chap. 48, § 1.*)

**32.** Except companies transacting in Canada ocean marine insurance business exclusively, it shall not be lawful for any insurance company to issue any policy of insurance, or take any risk, or receive any premium, or transact any business of insurance in Canada, or to prosecute or maintain any suit, action, or proceeding, either at law or in equity, or file any claim in insolvency, without first obtaining a license from the Minister of Finance to carry on business in Canada; but the premiums to become due on policies actually issued previous to this date may continue to be received, and the losses arising thereon may be paid as if this Act had not been passed. (*Ibid*, § 2.)

**33.** The Minister of Finance shall issue such license as aforesaid, so soon as the company applying for the same has deposited through him in the hands of the Receiver-General, the sums of money or securities hereinafter mentioned and required, and such

license shall specify the business to be carried on by the company. (*Ibid*, § 3.)

**34.** The deposit to be so made, as aforesaid, shall be as follows, to wit: By every life insurance or guarantee company, a sum of not less than fifty thousand dollars; and by every accident company, a sum of not less than twenty thousand dollars; and such sum shall be deposited before the license is issued, except only in the case of companies incorporated before the passing of this act, by act of the Parliament of Canada, or of the legislature of any of the late Provinces of Canada, Lower Canada or Upper Canada, or of Nova Scotia or New Brunswick, or which may have been or may hereafter be incorporated by the Parliament of Canada or by the legislature of any Province of the Dominion, and carrying on the business of life insurance, but no other, which companies may make such deposits in three equal annual installments, the first of which shall be paid before the issue of the license, on or before the first day of August, one thousand eight hundred and sixty-nine. (*Ibid*, § 4, as amended by act of 37 Victoria, chap. 48, § 1.)

**35.** When any company carries on more than one description of insurance business, it shall make a separate deposit, as aforesaid, for each branch of its business; *Provided*, That a company combining life and accident insurance shall only be required to make one deposit for each such combination of two branches of business; and with respect to any insurance business other than those hereinbefore specified, the Minister of Finance may prescribe the amount of deposit which shall be required. (*Ibid*, § 5.)

**36.** Except only as regards companies entitled to make their deposits by installments, as aforesaid, whenever and so long as the deposits of any company under this act, shall be less than one hundred thousand dollars, the agent of such company shall send in yearly to the Minister of Finance, within one month after the first day of January of each year, returns under oath, of the amount of premiums received by the company on risks in Canada, and after deducting twenty-five per cent. therefrom, and the net amount of losses or claims actually paid, shall deposit in the hands of the Receiver-General for the purposes of this act, and subject to its provisions, the balance of such premiums, until the deposit of such company shall be equal to one hundred thousand dollars; and so long as such deposit is under one hundred thousand dollars, no interest or dividends shall be paid on the actual deposit, but such interest or dividend shall be added to the principal every half year until, with the premiums hereinbefore mentioned, the deposit shall amount to one hundred thousand dollars; *Provided*, That any company combining the business of fire and life insurance shall be required to make such additional deposit only as regards the premiums received for life insurance; and *Provided also*, That any life insurance company incorporated in Canada since the Union, which shall deposit all the balance of the premiums received by it, after the deductions above provided for, until such deposit amounts to one hundred thousand dollars, shall not be subject to any provision of this act requiring any other deposit. (*Ibid*, § 6.)

**37.** Except in the cases with respect to which it is otherwise provided, so long as the amount of the deposit which any company is required to have then made is unimpaired, and no notice of any judgment or order to the contrary is served upon the Minister of Finance and the Receiver-General, the interest upon the stock or se-

curities representing or forming part of such deposit shall be payable to the company. (*Ibid*, § 8.)

**38.** Every company obtaining such license as aforesaid shall, before the transaction of any business of insurance, file in the office of either of the superior courts of law or equity in that one of the Provinces of Ontario, Nova Scotia, or New Brunswick in which it has its chief agency (if such chief agency be in one of those Provinces), or if the chief agency be in the Province of Quebec, with the Prothonotary of the superior court of the district within such chief agency is established, a certified copy of the charter, act of incorporation, or articles of association of the company, and also a power of attorney from the company to its agent in Canada, under the seal of the company (if it have a seal), and signed by the president and secretary or other proper officer thereof, and verified as to its authenticity by the oath of the agent of such company in Canada, or of some person cognizant of the facts necessary to its verification, which power of attorney must declare at what place in Canada the chief agency of the company is or is to be established, and must expressly authorize such agent to receive process in all suits and proceedings against such company in Canada, for any liabilities incurred by the company therein, and must declare that service of process for or in respect of such liabilities at such chief agency or personally on such agent, at the place where such chief agency is established, shall be legal and binding on the company to all intents and purposes whatever. (*Ibid*, § 9.)

**39.** After the certified copies referred to in the next preceding section and such power of attorney are filed as aforesaid, any process in any suit or proceeding against such company, for any liabilities incurred in Canada, may be served on the company at its chief agency in the same manner as process may be served upon any company incorporated in Canada, and all proceedings may be had thereupon to judgment and execution in the same manner and with the same force and effect as in proceedings in any civil suit in Canada. (*Ibid*, § 10.)

**40.** Every company obtaining such license as aforesaid shall forthwith give due notice thereof in the *Canada Gazette*, and in at least one newspaper in the county, city, or place where the chief agency is established, and shall continue the publication thereof for the space of one calendar month, and the like notice shall be given when such company shall cease, or notify that they intend to cease to carry on business in Canada. (*Ibid*, § 11.)

**41.** No foreign stock company shall transact any business of insurance in Canada unless such company is possessed of at least one hundred thousand dollars of paid up and unimpaired capital, or accumulated surplus funds invested in good and sufficient securities, nor shall any license be issued in favor of such company until statement under oath to that effect is filed with the Minister of Finance sworn to by some one whose duty it is to know and who is personally cognizant of the fact sworn to; *Provided*, That the unimpaired amount of the deposit of any company then in the hands of the Receiver-General shall be reckoned as part of its capital. (*Ibid*, § 12.)

**42.** Any person who shall deliver any policy of insurance or collect any premium, or transact any business of insurance on behalf of any such company as aforesaid, without such license as aforesaid, or if such license has been withdrawn, without the renewal thereof,



or without filing the copy of the charter, act of incorporation, or articles of association of the company, and a power of attorney as hereinbefore provided, shall be liable to a penalty of one thousand dollars for each such contravention of this act, which penalty may be sued for and recovered on information filed in the name of the Attorney-General for Canada, and shall be paid to the Crown, and in case of non-payment of such penalty in one month after such judgment, the person so offending shall be liable to imprisonment in any gaol or prison in the jurisdiction where he is convicted, for the space of three months. (*Ibid*, § 13.)

**43.** Subject to the exception in the next following section, every company so licensed shall transmit annually, to the office of the Minister of Finance, a statement in duplicate, verified by the oath of the president, manager, or agent of such company, or any person cognizant of the facts, containing the particulars mentioned in the form in the schedule to this act applicable to the case, such statement to be made up to the first day of July next preceding, or to the usual balancing day of the company; *Provided*, Such balancing day be not more than twelve months in the case of life assurance companies and six months in the case of other companies before the filing of such statement, and a copy of such statement shall be published in the *Canada Gazette*; and the Minister of Finance shall cause the statements, or an analysis thereof, to be laid before Parliament, within thirty days after the commencement of each session thereof, and any company failing to comply with the provisions of this section shall forfeit and pay to the Crown the sum of one thousand dollars, to be recovered on information to be filed in the name of the Attorney-General for Canada, in that behalf; and with respect to any kind of business not provided for in the said schedules, the Minister of Finance may prescribe the form of return which shall be made, under the like penalty, and recoverable in the like manner, and the Minister of Finance may from time to time vary the forms in the said schedules, as far as regards the business done by any company in Canada, or grant an extension of time for filing the same according as experience or the special constitution of any company may require. (*Ibid*, § 14.)

**44.** No insurance company established in the United Kingdom, and which is not bound by the laws in force there to furnish or publish statements of its affairs, shall be liable to the obligation, or to the penalty mentioned, in the next preceding section, provided such company, if a life, or fire and life insurance company, has deposited not less than one hundred and fifty thousand dollars in the hands of the Receiver-General, for the purposes of this act, and subject to all the provisions thereof, but every such company shall publish and file with the Minister of Finance, on or before the thirty-first day of January in each year, a general statement under oath of the agent in Canada, containing the particulars mentioned in the form D, in the schedule annexed to this act. (*Ibid*, § 15.)

**45.** In case of the insolvency of any company, the stock representing the deposit of such company shall be applied *pro rata* towards the payment of all claims duly authenticated against such company, upon or in respect of policies issued in Canada; and any such company shall be deemed insolvent upon failure to pay any undisputed claim arising or loss insured against in Canada for the space of thirty days after being due, or, if disputed, after final judgment and tender of a legal valid discharge and (in either case)

after notice thereof to the Minister of Finance; and the distribution of the proceeds of such stock may, if applied for in the Province of Ontario, or of Nova Scotia, or of New Brunswick, be made by order in chancery, or in equity, or if applied for in the Province of Quebec, may be made, by judgment or order of distribution of the superior court within the district where the chief agency is situated; *Provided*, That in any case when a claim for loss is by the terms of the policy payable on proof of such loss, without any stipulated delay, the notice to the Minister of Finance under this section shall not be given until after the lapse of sixty days from the time when the claim becomes due. (*Ibid*, § 16.)

46. For the purposes of such distribution the Court may order that the stock of the company so insolvent be transferred to and inscribed in the Government stock books at or nearest to the place of the chief agency, and within the jurisdiction of the Court, if such stock be not already inscribed there, and may order that no further interest on such stock be thereafter paid to the company, and that such stock or any part thereof be sold in such manner and after such notice and formalities as the Court may appoint. (*Ibid*, § 17.)

47. Whenever any company entitled to make the deposits required by this act by installments, fails to pay any such installment when due, or if any company fails to pay the Receiver-General the proper balance of its premiums as required by this act, and at the time required by it, or whenever notice has been given to the Minister of Finance under the next preceding section but one, so that the amount of the stock representing the deposit of such company is liable to be reduced by sale of any portion thereof, the license of such company shall *ipse facto* be null and void and shall be deemed to be withdrawn; but such license may, in the case last mentioned, be renewed and the company may again transact business, if within sixty days after notice to the Minister of Finance of the company's failure to pay any undisputed claim, or the amount of any final judgment, as provided in the said section, undisputed claims or final judgments upon or against the company in Canada are paid and satisfied, and the company's deposit is restored to the amount required by this Act. (*Ibid*, § 18.)

48. After any company has ceased to transact business in Canada, and given the notice required by this act to that effect, it shall be lawful for the Governor in Council, on the report of the Treasury Board, to authorize the whole or any portion of the stock of other securities so held in deposit for any company as aforesaid, to be released and transferred to the company, upon being satisfied that it has no liabilities upon policies issued in Canada, and that no suit or legal proceedings are pending against the company therein, or on proper proof on oath of the state of its affairs being given, that such company has ample assets to meet all its liabilities; and upon such authority being given by the Governor in Council, the company shall be entitled to receive, instead of any Dominion stock so held, the amount thereof in money at par. (*Ibid*, § 19.)

49. And as regards British and other foreign insurance companies actually doing business in Canada at the time of the passing of this act, which can not by the terms of their constitutions, or charters, or by-law, invest in Canadian securities, it shall be lawful for the Minister of Finance, with the approval of the Governor in Council, to receive the amount of the deposit required of them un-

der this act in British or foreign Government securities, including stock of any one or more of the United States, at their then market value, but with power to him to require from time to time, if such market value should decline, additional security equivalent to their diminution in value; and the portion of the premiums received by any such company required to be deposited under this act, may be invested by the company in any such British or foreign stock as aforesaid, and such stock may be deposited with the Receiver-General, subject to the provision above made as to value, and diminution in value; but all such stock shall be replaced by cash or investment to the amount aforesaid within three years from the issue of the license to the company, otherwise such license shall be void; and as regards any such company acting on the mutual principle in such wise as to be unable legally to make a deposit under this act, for the security of policy-holders resident in Canada the deposit may be for the general benefit of all its members, but the company shall specify the fact when making the deposit and in all returns made or published by them. (*Ibid*, § 22.)

**50.** The Minister of Finance shall publish quarterly, in the *Canada Gazette*, a list of companies licensed under this act, with the amount of deposits made by each, stating whether such deposit is for the security of the Canadian policy-holders, exclusively, or for the general security of all policy-holders. (*Ibid*, § 23.)

**51.** The provisions of this Act as to deposit and issue of license shall not apply to any insurance company incorporated by any Act of the Legislature of the late province of Canada, or incorporated or to be incorporated under any Act of any one of the Provinces of Ontario, Quebec, Nova Scotia, or New Brunswick, so long as it shall not carry on business in the Dominion beyond the limits of that province by the Legislature or Government of which it was incorporated, but it shall be lawful for any such company to avail itself of the provisions of this Act. (*Ibid*, § 25.)

**52.** The Superintendent of Insurance, who may at any time be appointed under an act of the present session, intituled "*An Act to amend and consolidate the several acts respecting insurance, in so far as regards fire and inland marine business*," shall have authority to examine into the affairs of all companies licensed to transact life insurance business or any form of insurance other than that of fire and inland marine insurance; and he shall have the like powers with respect to the superintendence of such companies as are provided for by the said act with respect to fire and inland marine companies. (*Act 38 Victoria, 1875, chap. 21, § 1.*)

**53.** The Minister of Finance shall have the power to call upon all such insurance companies to make such returns as he may deem necessary to show the condition and affairs of the same. (*Ibid*, § 2.)

**54.** In estimating the financial condition of companies, the Superintendent shall base his calculations on a rate of interest of five per cent. per annum on their securities. (*Ibid*, § 3.)

**55.** Any company which at the time of the passing of this act has made the deposit required by law, and has obtained a license for fire and life insurance, shall not be required to make any further deposit until after the expiration of such license, March thirty-first, one thousand eight hundred and seventy-six. (*Ibid*, § 4.)

**56.** For and notwithstanding anything in the said act contained (31 Victoria, chap. 48), any company licensed under the said

act may, at any time or times, deposit in the hands of the Receiver-General any further or other sum or sums of money or securities beyond the sum in and by the said act required to be deposited, and any such further sum or sums of money or securities therefor so deposited in the hands of the Receiver-General shall be held by him subject to and to be dealt with according to the provisions of the said act and of an act passed in the thirty-fourth year of her Majesty's reign, intituled "*An Act to amend the Act respecting Insurance Companies*," in respect to the original sum required to be deposited by such company, as if the same had been part of such original deposit. (*Act 37 Victoria, chap. 48, § 2.*)

**57.** Whenever any company licensed under the said act (31 Victoria, chap. 48) shall change its chief agent or its chief place of agency in Canada such company shall file a power of attorney according to the provisions of the ninth section of the said first mentioned act, containing any such change or changes in such respect; and shall thereby declare that service of process for or in respect of any liabilities under the said acts hereinbefore mentioned, respectively, at such last-mentioned chief agency, or personally on such last-mentioned agent at the place where the chief agency is established, shall be legal and binding on the company, to all intents and purposes whatever. (*Ibid, § 3.*)

## ARSON AND INCENDIARISM.

**58.** Whosoever unlawfully and maliciously sets fire to any church, chapel, meeting-house, or other place of divine worship, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labor, and with or without solitary confinement. (*Acts 32-33 Victoria, 1869, chap. 22, § 1.*)

**59.** Whosoever unlawfully and maliciously sets fire to any dwelling-house, any person being therein, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labor, and with or without solitary confinement. (*Ibid, § 2.*)

**60.** Whosoever unlawfully and maliciously sets fire to any house, stable, coach-house, out-house, warehouse, office, shop, mill, malt-house, hop-oast, barn, storehouse, granary, hovel, shed or fold, or to any farm building, or to any building or erection used in farming land, or in carrying on any trade or manufacture, or any branch thereof, whether the same is then in the possession of the offender, or in the possession of any other person, with the intent thereby to injure or defraud any person, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term not less than two years, with or without hard labor, and with or without solitary confinement. (*Ibid, § 3.*)

**61.** Whosoever unlawfully and maliciously sets fire to any station, engine-house, warehouse, or other building belonging or appertaining to any railway, port, dock, or harbor, or to any canal or other navigation, is guilty of felony, and shall be liable to be



imprisoned in the penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labor, and with or without solitary confinement. (*Ibid*, § 4.)

**62.** Whosoever unlawfully and maliciously sets on fire or burns, or otherwise destroys or causes to be set on fire or burnt, or otherwise destroyed, or aids, procures, abets, or assists in the setting on fire or burning, or otherwise destroying, of any of Her Majesty's ships or vessels of war, whether afloat or building, or begun to be built in any of Her Majesty's dockyards, or building or repairing by contract in any private yard for the use of Her Majesty, or any of Her Majesty's arsenals, magazines, dockyards, ropeyards, victualling offices, or any of the buildings erected therein or belonging thereto, or any timber or material there placed, for building, repairing or fitting out of ships or vessels, or any of Her Majesty's military, naval, or victualling stores, or other ammunition of war, or any place or places where any such military, naval or victualling stores, or other ammunition of war are kept, placed, or deposited, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labor, and with or without solitary confinement. (*Ibid*, § 5.)

**63.** Whosoever unlawfully and maliciously sets fire to any building, other than such as are in this act before mentioned, belonging to the Queen or any county, riding, division, city, town, village, parish, or place, or belonging to any university or college or hall of any university, or to any corporation, or to any unincorporated body or society of persons, associated together for any lawful purpose, or devoted or dedicated to public use or ornament, or erected or maintained by public subscription or contribution, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labor, and with or without solitary confinement. (*Ibid*, § 6.)

**64.** Whosoever unlawfully and maliciously sets fire to any building other than such as are in this act before mentioned, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding fourteen years, and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labor, and with or without solitary confinement. (*Ibid*, § 7.)

**65.** Whosoever unlawfully and maliciously sets fire to any matter or thing being in, against, or under any building, under such circumstances that if the building were thereby set fire to the offense would amount to felony, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labor, and with or without solitary confinement. (*Ibid*, § 8.)

**66.** Whosoever unlawfully or maliciously sets fire to, or casts away, or in any wise destroys any ship or vessel, with intent thereby to prejudice any owner or part owner of such ship or vessel, or of any goods on board of the same, or any person that

has underwritten, or may underwrite, any policy of insurance upon such ship or vessel, or on the freight thereof, or upon any goods on board of the same, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labor, and with or without solitary confinement. (*Ibid*, § 49.)

#### FRAUD AND FALSE SWEARING.

**67.** Any person knowingly, willfully, and corruptly making any affirmation, affidavit, or declaration required by any fire, life, or marine insurance company authorized by law to do business in Canada, claiming to be entitled to any insurance money in respect to any loss of property or life, insured or assured therein, or on behalf of any person making such claim containing any false statement of fact, matter, or thing in regard to such loss of property or life, shall be guilty of willful and corrupt perjury. (*Act, 32-33 Victoria, 1869, chap. 23, § 5.*)

**68.** Perjury or subornation of perjury is a misdemeanor; and any person guilty thereof shall be liable to be imprisoned in the penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement, for any term less than two years, and to pay such fine as the court may award. (*Ibid*, § 1.)

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# INSURANCE STATUTES OF CONNECTICUT.

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## INSURANCE COMMISSIONER.

1. The Governor, with the advice and consent of the Senate, shall once in every three years, appoint some suitable person not a director, officer, or agent of any insurance company, to be Insurance Commissioner, who shall, unless sooner removed by the Governor for cause, hold his office for three years, and until his successor is appointed and qualified. All vacancies, shall be filled in the same manner for the unexpired term, except that any vacancy, occurring while the Senate is not in session, may be filled by the Governor till the next session of the General Assembly. (*General Statutes*, 1875; p. 16, § 1.)

2. Said Commissioner shall have the powers and duties specified in Chapter II. of Title XVII.; shall see that all the laws respecting insurance companies are faithfully executed; may employ clerical aid; shall furnish to each of the insurance companies incorporated by this State, and to the attorneys of companies incorporated by other States and foreign governments, doing business in this State, printed forms of the statements required by law; shall pay over all fees, which he may receive from insurance companies, to the Treasurer; and may administer oaths in the discharge of his official duties. (*Ibid*, p. 17, § 2.)

3. Said Commissioner shall demand and receive the following fees from insurance companies: For receiving and filing annual reports, ten dollars; for valuation of policies of life insurance companies, one cent for each thousand dollars of insurance valued; for filing any additional paper required by law, twenty-five cents; and for every certificate of valuation, copy of report, or certificate of condition of company to be filed in other States, five dollars. (*Ibid*, § 3.)

4. No insurance company shall be required to report to the General Assembly; but said Commissioner shall annually submit a report thereto of his official acts, and of the condition of all insurance companies doing business in this State, with a condensed statement of their reports made to him, arranged in proper form for printing, together with a statement of the fees received by him for such companies, and paid by him to the Treasurer. (*Ibid*, § 4.)

## FIRE AND MARINE INSURANCE.

5. In all policies of insurance against loss by fire, hereafter made by companies chartered by or doing business in this State, no conditions shall be valid unless stated in the body of the policy. (*Ibid*, p. 301, § 1.)

6. No fire insurance company, doing business in this State, shall expose itself to loss on any risk, to an amount exceeding ten per cent. of its paid-up capital. (*Ibid*, § 2.)

7. The president, or vice-president and secretary of each fire and each fire and marine insurance company shall, annually in January, transmit to the Insurance Commissioner a statement of its condition on the thirty-first day of December next preceding, in the following form, namely:

*First.*—The amount of its capital stock.

*Second.*—Its assets, specifying:

1. The value of its real estate.
2. The amount of its cash on hand and in bank, specifying where it is deposited.
3. The amount of cash in the hands of agents and in course of transmission.
4. The amount of loans secured by mortgages on which there shall be less than one year's interest due.
5. The amount of like loans with one year's interest or more due thereon.
6. The amount due on judgments.
7. The amount of its stocks and bonds, with the description of amount, number of shares, and the par and market value of each.
8. The amount of stocks and bonds held as collateral security for loans, with the amount loaned on each, and the par and market value thereof.
9. The amount of assessments on stock or premium notes paid and unpaid.
10. The amount of interest accrued and unpaid.
11. The amount of premium notes on hand on which policies are issued.

*Third.*—Its liabilities, specifying:

1. The amount of losses due and unpaid.
2. The amount of unpaid losses not due.
3. The amount of claims for losses resisted by the company.
4. The amount of losses incurred during the year, including those claimed and not yet due, and those reported to the company upon which no action has been taken.
5. The amount of dividends due, and unpaid.
6. The amount of dividends, either cash or scrip, not yet payable.
7. The amount of money borrowed and security given for the payment thereof.
8. The amount of premiums received on all risks not terminated.
9. The amount required to reinsure all fire risks in force, computed at fifty per cent. of the gross amount of fire premiums (less return premiums and reinsurance), received on risks in force, not perpetual, ninety-five per cent. of premiums on perpetual risks in force, and one hundred per cent. of the amount of ocean marine premiums received on risks in force.
10. The amount of all other claims against it.

*Fourth.*—Its income during the preceding year, specifying:

1. The amount of cash premiums received.
2. The amount of notes received for premiums.
3. The amount of interest money received.
4. The amount of income received from other sources.

*Fifth.*—Its expenditure during the preceding year, specifying:

1. The amount of losses paid, stating how much of the same accrued prior, and how much subsequent, to its preceding statement, and the amount at which such losses were estimated in such statement.

2. The amount of dividends paid.

3. The amount of expenses paid, including agents' commissions.

4. The amount paid in taxes.

5. The amount of all other expenses. (*Ibid*, § 3.)

8. The Insurance Commissioner may inquire of any fire or fire and marine insurance company doing business in this State, or of its secretary, in relation to its financial condition, and such inquiry shall be promptly answered in writing. (*Ibid*, § 4.)

9. When the capital stock of any fire or marine insurance company shall be impaired, it may reduce it and the par value of its shares to such an amount as shall be justified by its assets; but no part of its assets shall be distributed to its stockholders, and no reduction shall be made, except upon the vote of the stockholders, approved by at least two-thirds of the board of directors, and certified under the corporate seal, by the secretary, a copy of which shall be filed in the office of the secretary of this State. (*Ibid*, p. 302, § 5.)

10. The directors, after such reduction of capital, may require each stockholder to surrender his certificate, and in lieu thereof may issue new certificates for such number of shares as he shall be entitled to. (*Ibid*, § 6.)

11. Such company, after its capital shall be so reduced, may increase its capital stock to any amount not exceeding the amount authorized by its charter. (*Ibid*, § 7.)

12. Every mutual fire insurance company, which shall approve this section, may insure personal property upon such terms as shall be agreed upon by the parties. (*Ibid*, § 8.)

13. No fire or fire and marine insurance company, association, or partnership, incorporated by or organized under the laws of any other State of the United States, shall directly or indirectly take risks or transact any business of insurance in this State, unless possessed of at least one hundred and fifty thousand dollars of cash capital paid up and securely invested; and every such company shall deposit with said Commissioner a certified copy of its charter, and a statement under the oath of its president, or vice-president and secretary, stating its name and location, and all the other particulars required by the third section of this article; nor shall any agent act for any such company, directly or indirectly, in taking risks or transacting the business of fire insurance in this State, without procuring from the Insurance Commissioner a certificate of authority stating that such company has complied with all the requisitions of this part, and giving the name of the attorney appointed to act for the company. Such a statement as is required by this section shall be made annually in January, and shall specify the amount of premiums received and losses paid in this State during the preceding year; and said Commissioner, on being satisfied that the capital, securities and investments remain secure, shall furnish a renewal of his certificate. The term agent or agents used in this section shall include an acknowledged agent or surveyor, and any person or persons who shall in any manner aid in transacting the insurance business. (*Ibid*, § 9.)

14. Any mutual fire or fire and marine insurance company lo-

cated in any other State of the United States, possessed of one hundred and fifty thousand dollars in cash, or securely invested in available cash assets, may be admitted to take risks and transact business in this State; *Provided*, It shall comply with all the other requirements of the laws of this State relating to companies of other States. (*Ibid*, § 10.)

**15.** Mutual marine insurance companies of other States may be admitted to transact business in this State upon complying with the provisions of the laws of this State relating to mutual fire and fire and marine insurance companies of other States. (*Ibid*, § 11.)

**16.** The Insurance Commissioner, either personally or by a committee to be appointed by him, to consist of one or more persons not directors, officers, or agents of any fire or fire and marine insurance company doing business in this State, may at any time examine into the affairs of any fire or fire and marine insurance company incorporated by or doing business in this State. The officers or agents of such company shall exhibit its books to said Commissioner or committee, and otherwise facilitate such examination; and the Commissioner or committee may examine under oath the officers and agents of any such company in relation to its affairs; and said Commissioner may publish the result of such investigation in one or more newspapers published in this State; but in relation to the affairs of any company incorporated by or organized under the laws of any other State of the United States, he may in lieu of such investigation accept the certificate of the Insurance Commissioner or Superintendent of such State, as to its condition. And whenever he shall ascertain that the assets of any fire or fire and marine insurance company incorporated by this State, after deducting for reinsurance, and its other proper liabilities, excepting capital, amount to less than three-fourths of its capital stock, if it have a stock capital, or in the case of a mutual company, if the assets, less unsettled claims, and other absolute liabilities, amount to less than three-fourths the sum requisite for reinsurance, he shall call upon it to make up such deficiency within such reasonable time as he shall fix, and, on a failure to comply with such requirement, shall bring his petition to a judge of the Superior Court, praying for an injunction restraining said company from the further prosecution of the business of making or renewing insurances, until said deficiency is made up; and if, upon a hearing before said judge, after such reasonable notice to such company as he may order, the allegations contained in such petition shall be found true, he shall issue such injunction. (*Ibid*, § 12.)

**17.** Every fire insurance company incorporated by this State, not now organized and doing business, before transacting any business, shall have not less than one hundred thousand dollars of its capital stock paid in cash, and shall receive from the Insurance Commissioner a certificate showing that it has complied with the provisions of this Act, and authorizing it to issue policies and transact business. (*Laws of 1875, p. 71, § 1.*)

#### FOREIGN FIRE INSURANCE COMPANIES.

**18.** The capital of every foreign company doing fire insurance business in this State shall, for all the purposes of the insurance laws of this State, be the aggregate value of its money or securities



deposited in the public departments of this State and other States of the United States, for the benefit of policy-holders, and all sums loaned on real estate security in any State of the United States, in conformity with the laws of such State providing for the investment of the assets of insurance companies therein, and all other assets in the United States in which fire insurance companies organized under the laws of this State may invest, provided such real estate securities and assets shall be held in the United States by trustees who are citizens of the United States, approved by the Insurance Commissioner, for the benefit of all its policy-holders and creditors in the United States, after making the same deduction from such aggregate value for losses and liabilities in the United States, and for premiums upon risks therein not expired, as is authorized or required by the laws of this State, or the regulations of its insurance department, with respect to fire insurance companies organized under the laws of this State. (*General Statutes, 1875, p. 303, § 1.*)

**19.** The agent or attorney of such company shall, in January, annually, sign, swear to, and return to said Commissioner, a detailed statement of the items making up said capital, and of the deductions to be made therefrom; and on being satisfied that said statement is correct, said Commissioner shall issue to such company a certificate of the amount of its capital so determined, and that the requirements of this part have been complied with, upon which capital it may transact business in this State, but subject to all the laws regulating fire insurance companies incorporated in this State. (*Ibid, p. 304, § 2.*)

**20.** The trustees referred to in the first section of this Article, shall be appointed by the directors of such company, and a certified copy of the vote by which they were appointed, and of the deed of trust, shall be filed in the office of the Commissioner; and he may examine such trustees or the agents of such company under oath, and its assets, books, and accounts, in the same manner as he may examine the officers, agents, assets, books, and accounts of any company authorized to do fire insurance business in this State. And if he finds that the net capital as stated in his last certificate has been materially reduced, he may recall such certificate and issue another. (*Ibid, § 3.*)

**21.** No foreign insurance company, or agent or attorney thereof, shall transact the business of fire insurance in this State until such company shall comply with the laws of this State relative to foreign fire insurance companies, and receive the certificate of the Insurance Commissioner mentioned in the second section. (*Ibid, § 4.*)

**22.** No foreign insurance company shall insure against loss by fire or inland navigation, nor expose itself to any such loss by any one risk for any greater amount in proportion to its capital than companies organized under the laws of this State may do. (*Ibid, § 5.*)

### LIFE INSURANCE COMPANIES.

**23.** Every life insurance company chartered by this State shall, on or before the first day of March in each year, render to the Insurance Commissioner a report, signed and sworn to by its president and secretary, of its condition upon the preceding thirty-first day of December, which shall include a detailed statement of its

assets and liabilities on that day, the amount and character of business transacted, moneys received and expended during the year, a descriptive list of all policies and contracts of insurance in force on that day, and such other information as the Commissioner may deem necessary; and if any company shall fail to make such report within the time, it shall be deemed insolvent. (*Ibid*, p. 304, § 1.)

**24.** Upon receipt of such report, the Commissioner shall make a valuation of the policies of each company, and ascertain the amount of reinsurance reserve proper to be held on account thereof; and he shall for this purpose assume the rate of mortality shown by the so-called Actuaries' or Combined Experience Table, and four per cent. compound interest, and he shall value only net premiums. (*Ibid*, p. 305, § 2.)

**25.** The Insurance Commissioner, upon the request of any such company, may make a valuation of all its policies in force on the preceding thirty-first day of December, upon the basis of the "American Experience Table," with interest at the rate of four and one-half per cent. a year, and furnish certificates of such valuation, to be filed with the proper officers of such other States as by law require the valuation of life insurance policies upon said basis; *Provided*, That the standard of valuation prescribed for companies doing business in this State shall not be altered by this section. (*Ibid*, § 3.)

**26.** The Insurance Commissioner shall, at least once in three years, visit each life insurance company incorporated by this State, thoroughly examine its financial condition, and ascertain whether it has complied with all the provisions of law. (*Ibid*, § 4.)

**27.** He shall in like manner examine any life insurance company not incorporated by this State, but doing business therein, whenever he has reason to doubt its solvency, and may employ such assistants as may be necessary in making the examination; and all the expenses of an examination without the State shall be borne by the company examined. (*Ibid*, § 5.)

**28.** For such purpose the Commissioner shall have free access to all books and papers of any life insurance company doing business in this State, and may examine under oath its officers or agents relative to its condition; and if any company not incorporated by this State, or its officers or agents, refuse to submit to such examination, or to comply with any provision of this Article, the authority of such company to do business in this State shall cease. (*Ibid*, § 6.)

**29.** No life insurance company, hereafter incorporated by this State, shall issue policies until, upon examination by the Commissioner, it shall have been found to have complied with the laws thereof; nor until he shall have issued his certificate setting forth such fact, and authorizing such company to issue policies; and for such examination the company shall pay him thirty dollars. (*Ibid*, § 7.)

**30.** Any life insurance company organized out of this State, before being admitted to do business in this State, and on or before the first day of March annually, shall furnish to the Insurance Commissioner a certificate of the proper officer of the Government by whose authority it is organized, setting forth a full copy of its report of its condition on the preceding thirty-first day of December, a valuation of its policies by said officer, by a standard equivalent to that provided in the second section of this article, and that it has com-

plied with the laws of such Government, and is authorized to transact business therein. If said Commissioner be satisfied with said certificate, and if said company shall have complied with all other provisions of law, he shall thereupon issue his license to it to transact business in this State for one year from the thirty-first day of December preceeding; but no such license shall be issued unless such certificate is furnished, nor unless such government shall license life insurance companies incorporated by this State to transact business therein, upon a similar certificate from the Insurance Commissioner, until such company makes the report required from companies incorporated by this State, and until a valuation of its policies shall have been made by the Commissioner. (*Ibid*, § 9.)

**31.** No person shall issue or deliver in this State any policy or contract of insurance of such life insurance company which is without a license, or after revocation of its license. (*Ibid*, p. 306, § 9.)

**32.** If the Insurance Commissioner shall at any time find from any report, examination, or otherwise, that the assets of any company incorporated by this State to grant insurance or make contracts contingent upon lives, are less than its liabilities, or if such company shall fail to comply with any of the requirements of law, he may notify it to cease the issue of new policies or the payment of dividends to stockholders and policy-holders, or both, until the deficiency be made good or the law complied with; and he may, and if it appear to him that the assets of such company are less than three-fourths of its liabilities, he shall, bring his petition to the superior court of the county in which the principal office of such company is located, if in session, and if not, to a judge of the Supreme Court of Errors, praying for the appointment of a receiver, and that the charter of such company may be annulled; and said court or judge shall forthwith issue a citation to such company to appear at a day and place to be named therein, and answer to said petition. And if, upon the hearing of said petition, said court or judge shall find the assets of such company to be less than its liabilities, said court or judge may, and if the assets are found to be less than three-fourths of the liabilities, shall, appoint some disinterested person or persons to be receivers of such company; and said court or judge may provide the mode of proving claims against such company, and appoint a committee to hear and decide upon them, and may limit and extend the time for the presentation of such claims, and may make all necessary orders in reference to the delivery to and possession by such receiver, of the assets and property of such company, and the sale and conveyance of the same by him, and may direct the application of the avails of such assets and property equitably in satisfaction of the claims proved against such company, and the payment of the present value of its outstanding policies to policy-holders, either in whole or in part, or to the reinsurance of its outstanding policies in some other solvent company, and said court or judge shall annul the charter and decree the dissolution of such company, and may make all other orders and decrees necessary and proper in reference to winding up the affairs of such company, and the disposition of its property. (*Laws of 1875*, p. 12, § 1.)

**33.** The liabilities of any such company for all the purposes of the proceedings mentioned in the preceding section, shall include the net present value of the policies of such company, or reinsurance reserve ascertained as now required by law. (*Ibid*, p. 13, § 2.)

**34.** Whenever the charter of any life insurance company of this

State shall be repealed, all the assets of such company shall vest in fee simple and absolutely in the Insurance Commissioner of this State, and his successors in office, who shall hold and dispose of the same for the use and benefit of the creditors and policy-holders of such company, and such other persons as may be interested in such assets. (*Laws of 1875, p. 51, § 1.*)

**35.** The Insurance Commissioner shall take immediate possession of the assets, books, and papers, and collect the debts and claims due such company; he shall sell and dispose of the real estate and other property of such company, and may execute in his own name as Insurance Commissioner all necessary and proper conveyances of the same; he may also in his own name as Insurance Commissioner, maintain and defend all actions at law or in equity, relating to such company, its assets and business. (*Ibid, § 2.*)

**36.** The superior court for the county in which the principal office of such company is located, upon the application of the Insurance Commissioner, shall limit and may extend the time for the presentation of claims against such company, and notice thereof shall be given in such manner as said court shall direct; and any creditor neglecting to present his claim within the time so limited, shall be debarred of all right to share in the assets of such company. Said court shall appoint not more than three disinterested persons as commissioners to receive and decide upon the claims presented against such company, who shall give notice of the times and places of their meeting for that purpose, in such manner as said court shall prescribe; and within one month after the expiration of the time so limited, shall file with the clerk of said court a list of the claims presented to them, specifying those allowed and those disallowed. (*Ibid, § 3.*)

**37.** The Insurance Commissioner shall ascertain the net present value of each policy in force in such company at the time of the repeal of its charter, and for that purpose shall use the Actuaries' or Combined Experience Table of Mortality, with four per cent. compound interest; and he shall file with the clerk of said court a certificate showing the net present value of each of said policies, and such net present value shall be the surrender value of each of said policies. (*Ibid, § 4.*)

**38.** The Insurance Commissioner, under the direction of said court, shall apply the sums realized from the assets of such company, first to the payment of all the expenses of closing the business and disposing of the assets of such company; secondly, to the payment of all lawful taxes and debts due the State and the United States; thirdly, to the payment of the debts and claims allowed against such company, and the surrender value of its policies, in proportion to their respective amounts; and lastly, any sums remaining in the hands of the Insurance Commissioner, after the payments have been made in full as herein provided, shall be disposed of in such manner as said court shall order and direct. And said court may make all orders and decrees necessary and proper in reference to the title, possession, disposition, and distribution of said assets, and the allowance and satisfaction of claims against such company, and in any other matter relating to its affairs and business. (*Ibid, § 5.*)

**39.** Whenever by this act, or by any other law of this State, general or special, the Insurance Commissioner is authorized or required to take possession of the assets of any life insurance com-



pany, any person who shall neglect or refuse to deliver to said Commissioner, on demand, any books, papers, evidences of title or debt, or any property belonging to any such company in his possession or under his control, shall be punished by a fine of not more than ten thousand dollars, or by imprisonment in the county jail for a term not exceeding three years, or by such fine and imprisonment both. (*Ibid*, § 6.)

**40.** Before the Insurance Commissioner shall take possession of any of the books, papers, or assets of any life insurance company in accordance with the provisions of this act, or of any other act, general or special, he shall give bonds for the faithful discharge of his duties, in such sums, and upon such conditions, as may be required by the Chief Judge of the Supreme Court of Errors, and to the satisfaction of said Judge. (*Ibid*, p. 53, § 7.)

### FOREIGN INSURANCE COMPANIES GENERALLY.

**41.** No foreign insurance company shall take risks in this State unless it has a cash capital of more than two hundred thousand dollars, and shall have made a deposit with the Treasurer of this State, or with the proper officer of some other State, of not less than two hundred thousand dollars in the bonds of this State, or of the State of New York or Massachusetts, or in bonds or public stocks of the United States, in trust for the benefit of its policyholders in the United States; and no policy issued by such company to any citizen of this State shall be invalidated by the occurrence of hostilities between the Government of the United States and the government under the laws of which it was organized. (*General Statutes* 1875, p. 306, § 1.)

**42.** Every foreign insurance company shall, before admission to do business in this State, furnish to the Insurance Commissioner a copy of its charter or articles of association and of its last annual report made in the country where it was organized, and the certificate of the officer holding in trust said deposit of two hundred thousand dollars, stating the manner in which the same is invested and the purposes for which the same is held; and it shall furnish annually to the Insurance Commissioner a statement of the condition of its affairs in the United States, in such form as he shall require. (*Ibid*, § 2.)

**43.** When such foreign insurance company shall have complied with the provisions of law relating to such companies, and the Insurance Commissioner is satisfied that it is solvent in the United States, he may issue its license to transact business in this State, but it and its agents shall pay the fees now required of the insurance companies of the State of New York, and shall annually pay to the Insurance Commissioner a license fee of fifty dollars. (*Ibid*, § 3.)

### GENERAL PROVISIONS.

**44.** No insurance company, association, or partnership, organized under the laws of any other State, or any foreign country, shall directly or indirectly issue policies, take risks, or transact business in this State, until it shall have appointed an attorney residing in this State, who shall act in that capacity until a successor

be duly appointed and upon whom any civil process may be served. And such service shall be binding, and shall be personal service upon the company appointing him; a certificate of such appointment shall be filed with the Insurance Commissioner, and shall contain a stipulation that in case of the death, absence, or removal from this State of such attorney, any process relating to such company may be served upon the Insurance Commissioner, and shall have the same effect as if served upon such attorney; and if such company withdraw from, or cease to do business in this State, service upon such attorney or the Insurance Commissioner shall nevertheless be binding, and be deemed a personal service upon the company. (*Laws of 1875, p. 30, § 1.*)

**45.** When the Insurance Commissioner shall find that any insurance company not incorporated by this State is unsound, estimated in the manner prescribed in the twelfth section of Article I. of this Part, he shall revoke its license and cause notice thereof to be published in two daily newspapers, printed, one in Hartford and one in New Haven, at least four weeks; and he may reissue such license when he shall be satisfied of its soundness; and no agent or agents of such company shall, after the first publication of such notice, issue or renew any policy of insurance in its behalf. (*General Statutes 1875, p. 307, § 2.*)

**46.** When the stockholders of any insurance company shall vote to consolidate with any other similar company, and the stockholders of both companies shall agree to such consolidation, and determine under which corporate organization and name their business shall be conducted, they shall be consolidated under the corporate organization and name thus chosen, and thereupon all rights and property of both of said companies shall become the property of the corporation composed of such companies, and said last named corporation shall be liable for the outstanding obligations of such companies. (*Ibid, § 3.*)

**47.** Upon such consolidation, the value of each share of the capital stock of each of them shall be ascertained through a valuation of all its assets and liabilities at the time of such consolidation, and new shares (and when necessary, parts of shares) of the consolidated company shall be apportioned to each stockholder, equal to the value of his shares in either of the original companies; and such shares so apportioned shall be substituted for the shares in such companies; and all certificates of shares in said original companies shall be surrendered when new certificates shall be issued. (*Ibid, § 4.*)

**48.** The capital stock of the consolidated company shall not exceed the aggregate authorized capital of the original companies. (*Ibid, p. 308, § 5.*)

**49.** The president and directors of such consolidated company shall, within thirty days after such consolidation, file a certificate in the office of the Secretary of this State, stating such consolidation, and the name and charter adopted. (*Ibid, § 6.*)

**50.** When any inhabitant of this State shall effect insurance in any insurance company, and give a premium note, the policy and note shall constitute one contract, and every equitable claim of the maker thereof upon said company may be set off against said note in the hands of a third party; and when any such company becomes insolvent, the maker shall be liable on said note for only the equitable proportion thereof, for such part of the term of insurance

as said company continued solvent; and if the insolvency occurs within sixty days after its date, said note shall be void, except for any amount for which the maker may have a claim on said company. All mutual insurance companies (except those otherwise authorized by their charters) shall take premium notes for the obligations of the assured; and assessments shall be for losses only, and upon said notes, and when paid shall be in payment, in whole or in part, as the case may be, of such notes. (*Ibid*, § 7.)

**51.** No insurance company shall limit the term within which any suit shall be brought against it to a period less than one year from the time when the loss insured against shall accrue. (*Ibid*, § 8.)

**52.** When, by the laws of any other State or any foreign country, any payments, deposits, or other obligations shall be imposed upon insurance companies of this State, or their agents transacting business in such other State or foreign country, the like payments, deposits, and obligations are hereby imposed on similar companies of such other State or foreign country, and their agents transacting business in this State; and such companies and their agents shall pay all penalties to, and make deposits with, the State Treasurer. (*Laws of 1875, p. 40, § 1.*)

**53.** When any State shall require insurance companies of other States to deposit, with some officer of such other State, securities in trust for the policy-holders of such companies, as a prerequisite to their transacting business in such State, the Treasurer of this State may receive from any insurance company of this State the securities required by the laws of such other State, on deposit, and hold the same in trust for the policy-holders of such other company; but it may collect and receive the interest and dividends thereon, and withdraw them on depositing with the said Treasurer other securities of like character and value. The Treasurer shall issue a certificate under seal, of such deposit, for each State which shall require the same, which shall state the items and amount of securities thus deposited, and that he is satisfied that they are of the market value represented therein; but no securities shall be estimated above the par value of the same, nor shall any such securities be withdrawn, except as provided in this section. (*General Statutes, 1875, p. 308, § 10.*)

**54.** An examination shall be annually made by the Treasurer of the securities held by him in trust, as aforesaid, from each insurance company, and if it shall appear at any time that they amount to less than the sum required for the purposes for which such deposit was made, he shall notify said company thereof, and unless the deficiency is made up within thirty days shall countermand all the certificates he may have issued to said company under the preceding section, and give notice thereof to the offices of the States to whom said certificates may have been transmitted, and publish said notice in one newspaper printed in Hartford, and one printed in New Haven, for three weeks successively. (*Ibid*, § 11.)

**55.** Each insurance company, so depositing securities with the Treasurer, shall pay him twenty-five dollars annually, in lieu of all fees for such services, except in cases where it shall be necessary to make an examination out of his office; for each of which such special examinations and appraisals he shall be paid by the company, in whose behalf the service is performed, ten dollars and his actual traveling expenses, in lieu of other fees. (*Ibid*, p. 309, § 12.)

**56.** When said company shall have caused all its unexpired policies to be paid, canceled or reinsured, and all its liability under such policies thereby to be extinguished, or to be assumed by some other responsible company having a similar deposit with said Treasurer, he shall, on application of such company, verified by the oath of its president or secretary, and on being satisfied by an examination of its books, and of its officers under oath, that all its policies are so paid, canceled, extinguished, or reinsured, deliver up to it such securities. (*Ibid*, § 13.)

**57.** The several insurance companies of this State, which have deposited with the Treasurer registered bonds of this State, or of the United States, are hereby permitted to substitute for such bonds the bonds of any incorporated city or town of this State, of like amount; and all deposits, hereafter made with the Treasurer by any insurance company, shall consist only of registered bonds of this State, or of the United States, or such mortgages upon real estate within this State, as the Treasurer may deem satisfactory, or the bonds of an incorporated city or town of this State. (*Ibid*, § 14.)

**58.** No person shall, in this State, receive or procure applications for insurance, or issue policies of insurance or renewals thereof, or in any manner aid in the transaction of the business of any insurance company or association, organized under the laws of any other State, until he has in all respects complied with the laws of this State; but nothing herein contained is to be so construed as to prohibit any person residing in this State from making application to and procuring from any insurance company doing business out of this State, and having no agents in this State, policies of insurance on his property in this State. (*Ibid*, § 15.)

**59.** If the Insurance Commissioner shall at any time find that the assets of any insurance company incorporated by this State are less than its liabilities, or if it shall fail to comply with the requirements of law, he shall forthwith notify it to cease to issue new policies, or pay dividends, until the deficiency shall be made good, and the law complied with; and he may, and, if it appears to him that its assets are less than three-fourths of its liabilities, shall, bring his petition to the superior court of the county in which the principal office of such company is located, if in session, and if not to a judge of the supreme court of errors, praying for the appointment of a receiver, and that said company may be enjoined from any further proceeding in its business, and that its charter may be annulled; and said court or judge, and the receiver if appointed, shall thereupon proceed, as nearly as may be, as provided in Part II. of this chapter in the case of banks; and said court may make such orders relative to the assets of said company as it may deem proper. (*Ibid*, § 16.)

**60.** Every person who shall violate any provision of this part, for which no other penalty is provided, or provision made, shall be fined not less than one hundred dollars, nor more than five hundred dollars. (*Ibid*, p. 310, § 17.)

#### ASSESSMENT OF TAXES.

**61.** The cashiers or secretaries of all corporations, whose stock is liable to taxation, shall, on or before the twelfth day of October,



annually, inform the assessors of each town of the names of the stockholders residing therein, and the amount of stock owned by each, as exhibited by the books of said corporations, on the first day of said October, so far as the residence of such stockholders shall be known to such cashiers or secretaries, and its market value during the month of September next preceding; and any such cashier or secretary who shall neglect to furnish such information to the assessors of any town where said stock is liable to be taxed, shall forfeit fifty dollars to such town; but putting a letter into the post office containing such information, postage paid, addressed to the assessors of any town where such owner resides, shall be a compliance with the provisions of this section. (*Ibid*, p. 157, § 21.)

**62.** The cashier of each bank and national banking association, the treasurer of each savings bank, and the secretary of each corporation incorporated by the laws of this State, shall, upon the request of the assessors of any town, inform them of the name of any person therein, who owns stock or bonds held by such corporation as collateral security for any indebtedness or liability, and the amount and description of such stock or bonds; and any such cashier, treasurer, or secretary, who shall neglect to furnish such information to the assessors of any town where said stock or bonds are liable to be taxed, shall forfeit one hundred dollars to said town. (*Ibid*, § 22.)

### SPECIAL TAXES ON CORPORATIONS.

**63.** The cashier or secretary of each corporation, whose stock is liable to taxation, and not otherwise taxed by the provisions of this Title, shall on the first day of October, annually, or within ten days thereafter, deliver to the Comptroller a sworn list of all its stockholders, residing without this State on the said day, and the number and market value of the shares of stock therein then belonging to each; and shall, on or before the twentieth day of October, annually, pay to the State one *per cent.* of such value; and if any such cashier or secretary shall neglect to comply with the provisions of this section he shall forfeit to the State one hundred dollars, in addition to said one *per cent.* so required to be paid. (*Ibid*, p. 167, § 2.)

**64.** The secretary or treasurer of every life insurance company chartered by this State, and doing business in whole or in part upon the plan of mutual insurance, including all companies whose policy-holders have a right to participate in its profits, shall, on or before the fifteenth day of February, annually, render to the Comptroller a sworn statement of the total amount of its assets on the preceding thirty-first day of December, with a detailed enumeration of such assets and the market value thereof, the amount of premium notes held by it, its ascertained and paid losses on that day, and if said company be also in part a stock company, the stock whereof is by law taxable, the market value of the assets belonging to the stock department of said company. (*Laws of 1875*, p. 10, § 1.)

**65.** The board of equalization shall examine and correct all statements and returns made to the Comptroller in pursuance of the foregoing section, and in case any such company shall not make the return herein prescribed, said board shall, upon the best information it can obtain, make out, within ten days after the time above limited for making such returns, the statements required to be

made by such company, and such statement or return, so corrected or made out shall be conclusive as to the market value and amount of the assets of said company. (*Ibid*, § 2.)

**66.** Every such insurance company shall, annually, on or before the twenty-fifth day of February, pay to the State, as a tax on its corporate franchise, a sum equal to one half of one per cent. on the total amount of its premium notes and on the market value of all its other assets, deducting, however, the amount of its ascertained and unpaid losses, the market value of its real estate liable to taxation in this State, the market value of any bonds owned by it which have been heretofore issued by this State, or by any town or city in this State, in aid of the construction of any railroad, and which by the laws of this State are exempt from taxation, and if said company be in part a stock company, the stock whereof is by law otherwise liable to taxation, the market value of the assets belonging to its stock department; and said tax so paid shall be in lieu of all other taxes on the assets of said company, except on its taxable stock and on real estate held by it, over and above what may be necessarily used by it in transacting its appropriate business. (*Ibid*, § 3.)

**67.** If any person whose duty it shall be to make such returns shall fail to do so within the time limited, he shall forfeit five thousand dollars to the State, and if any insurance company required by this statute to make any payment fail to do so within the time herein limited, it shall forfeit to the State twice the amount required for such payment. (*Ibid*, p. 11, § 4.)

**68.** The secretary or treasurer of each fire insurance company chartered by this State, which does business, in whole or in part, upon the plan of mutual insurance, including every company whose policy-holders have a right to participate in its profits, shall, on or before the twentieth day of January, annually, render to the Comptroller a sworn statement showing the total amount of its assets on the preceding thirty-first day of December, and containing a detailed enumeration of such assets, and the market value thereof, the amount of premium notes held by it, and its ascertained and unpaid losses on that day, with the balance remaining after deducting from said total amount of unpaid losses, and the market value of any bonds owned by it which have been heretofore issued by this State, or by any town or city in this State, in aid of the construction of any railroad, and which by the laws of this State are exempt from taxation, and the premium notes held by it. (*Laws of 1875*, p. 11, § 1.)

**69.** The Board of Equalization shall examine and correct all statements and returns made to the Comptroller in pursuance of the foregoing section, and in case any such company shall not make the return herein prescribed, said Board shall, upon the best information it can obtain, make out within ten days after the time above limited for making such returns, the statement required to be made by such company, and such statement or return so corrected, or made out, shall be conclusive as to the market value and amount of assets of said company. (*Ibid*, § 2.)

**70.** Each of such mutual fire insurance companies shall, annually, on or before the thirtieth day of January, pay to the State, as a tax upon its corporate franchise, a sum equal to three-fourths of one per cent. upon the amount of the balance remaining as aforesaid; and said tax so paid shall be in lieu of all other taxes on the assets

of said company, except upon the real estate held by it, over and above what may be necessarily used by it in transacting its appropriate business. (*Ibid*, p. 12, § 3.)

**71.** If any person whose duty it shall be to make such returns, shall fail to do so within the time limited, he shall forfeit five thousand dollars to the State, and if any insurance company required by this statute to make any payment, shall fail to do so within the time herein limited, it shall forfeit to the State twice the amount required for such payment. (*Ibid*, § 4.)

**72.** Every insurance company or association incorporated by or organized under the laws of any other State, and admitted to transact business in this State, and each agent of every such insurance company, shall pay the same fees and taxes to the Treasurer of this State as are imposed by such other State upon any similar insurance companies incorporated by or organized under the laws of this State, or upon the agents of any such companies transacting business in such other State. (*Laws of 1875*, p. 23, § 1.)

**73.** Every agent of any such insurance company admitted to transact business in this State shall return annually, the first day of January, under oath to the Insurance Commissioner, the gross amount of premiums collected by him for the year previous: and upon receiving from said commissioner a certificate of the acceptance of said return, and of the amount of tax due thereon, shall pay the same to the Treasurer of the State on or before the twentieth day of January annually. And every such agent, and every agent of a foreign insurance company, shall retain from the premiums collected by him, the tax due, or to become due thereon. (*Ibid*, § 2.)

**74.** Each agent of any insurance company or association incorporated by or organized under the laws of any foreign government, which shall have received from the Insurance Commissioner a license to transact business in this State, shall return annually, on the first day of January, under oath to said Commissioner, the gross amount of premiums collected by him for the year previous: and shall, annually, on or before the twentieth day of January, pay to the Treasurer of the State a tax of *two per cent.* upon the amount of premiums so collected. (*Ibid*, § 3.)

**75.** No bank, savings bank, insurance company, or trust company, heretofore incorporated, shall change its location from one town to another, except by act of General Assembly. (*General Statutes*, 1875, p. 280, § 21.)

**76.** Every person who shall violate any law of this State relating to insurance companies organized under the laws of other States or foreign governments shall forfeit one hundred dollars. (*General Statutes*, 1875, p. 527, § 8.)

## INSURANCE ON LIVES FOR THE BENEFIT OF MARRIED WOMEN AND CHILDREN.

**77.** Any policy of life insurance, expressed to be for the benefit of a married woman, or assigned to her, or in trust for her, shall inure to her separate use, or in case of her decease before payment, to the use of her children, or of her husband's children, as may be provided in such policy, provided that if the annual premium on such policy shall exceed three hundred dollars, the amount of such excess with interest shall inure to the benefit of the creditors of the

person paying the premium ; but if she shall die before the person insured, leaving no children of herself or husband, the policy shall become the property of the person who has paid the premiums, unless otherwise provided in such policy. (*Revised Statutes of 1875, p. 187, § 7.*)

## ARSON AND INCENDIARISM.

**78.** Every person who shall commit arson, and owner or tenant of any building who shall willfully burn it, or anything therein, with intent to defraud another ; and every owner, officer, or mariner of any vessel, who, with like intent, shall willfully cast away, burn, or destroy such vessel, shall be imprisoned in the State prison not less than seven, nor more than ten years. (*General Statutes, 1875, p. 502, § 3.*)

**79.** Every person who shall willfully burn any vessel, unfinished dwelling house, or other private building, not a dwelling house, belonging to another, shall be imprisoned in the State prison not less than two nor more than five years ; and if the building so burned shall be so near to any dwelling house that the burning of such building shall or may endanger the burning of such dwelling house, the offender, instead of foregoing punishment, shall be imprisoned in the State prison not less than seven nor more than ten years. (*Ibid, § 4.*)

**80.** Every person who shall willfully burn any building of another, in which any horses or cattle are stabled or kept, shall be imprisoned in the State prison not more than ten years. (*Ibid, § 5.*)

## EMBEZZLEMENT.

**81.** Every officer or agent of any private corporation of this State, or of any common carrier, or any agent of any private individual, who shall take, purloin, secrete, or in any way appropriate to his own use, or to the use of others, any of the goods, moneys, or choses in action, in the care or custody of, belonging to or deposited with such corporation, carrier, or individual, with intent to defraud another, or who shall, with like intent, make any false entries upon any of their books, or shall keep false books or entries of and concerning their business and affairs, with like intent, shall be imprisoned in the State prison not more than ten years ; but the provisions of this section shall not apply to an agent of a private individual, when the value of the goods taken, purloined, secreted or appropriated by such agent shall not exceed twenty-five dollars. (*General Statutes, 1875, p. 524, § 1.*)

**82.** Any agent of an agent of any corporation, who shall appropriate to his own use the property of his principal, with intent to defraud him, shall be punished in the same manner as the agent of such corporation would be for a similar offence. (*Ibid, § 3.*)

## FRAUD AND FALSE SWEARING.

**83.** Every person who shall obtain, or attempt to obtain, from any life or accident insurance company of this State, any money on any policy of insurance issued by it, by falsely or fraudulently rep-



representing the insured person as dead, or the person insured against accident as injured; or shall fraudulently obtain or attempt to obtain any money from such company upon a policy of insurance issued in the name of a fictitious person, shall, if the sum so obtained, or attempted to be obtained, be one hundred dollars or more, be imprisoned in the State prison not more than ten years; and if such sum shall be less than one hundred dollars, he shall be fined not more than five hundred dollars, or imprisoned in a jail not more than one year or both. (*General Statutes*, 1875, p. 524, § 6.)

**84.** For General Provisions relating to Private Corporations, see Revised Statutes, 1875, pp. 277-281; Joint Stock Corporations, *Ibid*, pp. 310-315.

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## INSURANCE STATUTES OF DELAWARE.

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1. Every fire, marine, life, or live stock insurance company, incorporated under the laws of this State, shall, within six months after the passage of this act, and thereafter annually, before the first day of July in each year, publish or cause to be published once a week for three weeks, in at least two newspapers of this State, a statement in detail, setting forth its financial condition at the time such statement is published, presenting the amount and nature of the business done during the last preceding year, with the assets and liabilities of the corporation, and the manner in which its assets are invested, the amount of annual expenses, and for a failure to publish such statement the said bank or insurance company shall be liable to a fine of two hundred dollars for each and every such omission, to be prosecuted and received by the Attorney General for the use of the States. (*Laws of 1875, p. 180, § 1.*)

2. Every foreign fire, life, marine or live stock insurance company, having a duly authorized agent or agents representing it within this State, or doing business within the State, shall be required to publish a statement as provided in the foregoing section, and in default of such publication it shall not be lawful for any agent or agents to pursue the business of representing a company so omitting to publish or to receive insurance for the same, within the limits of this State, under the penalty prescribed in the preceding section. (*Ibid, § 2.*)

3. Whenever the existing or future laws of any other State of the United States shall require of insurance companies incorporated by this State, and having agencies in such other State, or of the agents thereof, any deposit of securities in such State for the protection of policy-holders, or otherwise, or any payment for taxes, penalties, certificates of authority, license fees, or otherwise, greater than the amounts required for such purposes from similar companies of other States by the then existing laws of this State, then, and in every such case, all companies of such States, establishing, or having heretofore established an agency or agencies in this State, shall be and are hereby required to make the same deposit, for a like purpose, with the Treasurer of the State of Delaware, and to pay to said Treasurer for taxes, fines, penalties, certificates of authority, license fees, and otherwise, an amount equal to the amount of such charges and payments imposed by the laws of such State upon companies of this State and agents thereof. (*Ibid, p. 380, § 1.*)

4. All sums of money received by the Treasurer of the State of Delaware under the provisions of this act, in payment of taxes, penalties, certificates of authority, or license fees, from foreign insurance companies transacting business in this State by agents or otherwise, shall be for the use of the State of Delaware. (*Ibid, § 2.*)

5. All persons violating any of the provisions of this act, shall be liable to indictment, on information of such violation being given to the Attorney-General of this State, or to his deputies, and

on conviction, shall be fined not less than one hundred dollars, nor more than five hundred dollars, at the discretion of the jury and court trying the same. (*Ibid*, § 3.)

6. No person or persons, firm, company or corporation, without having first obtained a proper license therefor, as hereinafter provided, shall within the limits of this State, be engaged in, prosecute, follow, or carry on any trade, business, pursuit, or occupation in this section hereinafter next mentioned, that is to say: foreign life insurance agency; foreign fire insurance agency. (*Revised Statutes*, 1874, p. 31, part of § 1.)

7. Any person or persons, firm, company, or corporation desiring to be engaged in, prosecute, follow, or carry on any trade, business, pursuit, or occupation named in the foregoing section of this act, may apply to the Clerk of the Peace of any county in this State for a proper license authorizing or empowering him, her, or them to engage in, prosecute, follow, or carry on such trade, business, pursuit, or occupation which he, she, or they may desire to engage in, prosecute, follow, or carry on, and upon his, her, or their paying, for the use of the State, to the said Clerk of the Peace, the fee hereinafter mentioned for such license, also the fee to the Clerk of the Peace for issuing the same, it shall be the duty of such Clerk of the Peace to issue to him, her, or them a proper license thereof. (*Ibid*, § 2.)

8. The following fee shall be paid to the Clerk of the Peace, for the use of the State, for any license to be issued by him under the provisions of this act, that is to say: for each license as a foreign life insurance agent the sum of fifty dollars; and such agent shall also pay to the Clerk of the Peace, for the use of the State, at the time of obtaining such license in each year, two and one-half per centum on the gross amount of premiums received and assessments collected by such agent during the year immediately next preceding the date of obtaining such license in each year; and every such agent shall at the same time furnish to the Clerk of the Peace a statement showing the gross amounts of premiums received and assessments collected, and shall verify such statement by his oath or affirmation, taken before some person who, by the laws of this State, is duly authorized to administer the same: for each license as a foreign fire insurance agent the sum of fifty dollars; and such agent shall also pay to the said Clerk of the Peace, for the use of the State, the sum of two and one-half per centum on the gross amount of premiums received and the assessments collected by such agent during the year immediately next preceding the date of obtaining such license in each year; and such agent shall at the same time furnish to the said Clerk of the Peace a statement showing the gross amount of premiums received and assessments collected, and shall verify such statement by his oath or affirmation duly administered by some person authorized by the laws of this State to administer oaths. (*Ibid*, § 3.)

9. That if any person or persons, firm, company, or corporation shall be engaged in, prosecute, follow, or carry on, within the limits of this State, any trade, business, pursuit, or occupation named in the first section of this act, without having first obtained a proper license therefor, he, she, or they, and the individuals composing such firm or company, and each of them, and the president and directors, and each of them, of such corporation, for every such offense shall be deemed guilty of a misdemeanor, and upon conviction thereof by indictment, besides being liable to the payment



of the tax, be subject to imprisonment for a term not exceeding two years, or a fine not exceeding five hundred dollars, or both, at the discretion of the court; one moiety of such fine for the use of the State, the other moiety to the use of the person who shall first give information of the fact whereby said forfeiture was incurred. (*Ibid*, p. 32, § 4.)

**10.** Every person other than the clerk or assistant of any life insurance agent who shall have become qualified to conduct and carry on the business of life insurance agent as provided for in section 2 of said chapter 117 (2), at the one place designated in his license, who shall procure or solicit any citizen or resident of this State to take out a policy on his or her life, or life or lives of another or others, in any company or companies not incorporated by the laws of this State, shall be deemed a foreign life insurance agent within the meaning of this act. Every person other than the clerk or assistant of any fire insurance agent who shall have become qualified to conduct and carry on the business of fire insurance agent, as provided for in section 2 of said chapter 117, at the one place designated in his license, who shall procure or solicit any citizen or resident of this State to take out a policy of insurance in any fire insurance company or companies not incorporated by the laws of this State, shall be deemed a foreign fire insurance agent within the meaning of this act. (*Ibid*, § 5.)

**11.** In every license to be taken out under or by authority of this act, shall be contained and set forth the trade business, pursuit, or occupation for which such license is granted, the name and place of abode of the person or persons taking out the same, and that the fee due the State therefor has been paid. Where one or more persons are associated together as a firm or copartnership, and doing or carrying on any trade, business, pursuit, or occupation mentioned in the first section of this act at the same time and place, it shall not be necessary for each of the individuals composing such firm or copartnership to take out a separate license thereof, but one license may be granted in the name of the firm or copartnership. In every case where more than one of the trades, businesses, pursuits, or occupations mentioned in the first section of this act shall be pursued or carried on by the same person or persons, firm, company, or corporation at the same time, a license must be taken out for each according to the rates prescribed by the third section of this act. Every license issued in pursuance of the provisions of this act shall bear date on the day on which it was issued, and shall continue in force one year from the date thereof and no longer. Such licenses shall be signed by the Governor of this State, and countersigned by the Secretary of State and sealed with the seal of his office. The death, resignation, or removal from office of the Governor, or of the Secretary of State, shall not avoid or invalidate any license issued under the provisions of this act. Every person or persons, firm, company, or corporation, who shall procure a license under this act as a foreign life insurance agent, or foreign fire insurance agent, shall be authorized and empowered during the year for which such license was granted, to exercise and carry on the trade, business, pursuit, or occupation for which the license was granted in any county of this State; *Provided*, That no such person or persons, firm, company, or corporation shall be engaged in, prosecute, follow, or carry on such trade, business, pursuit, or occupation at more than one place at the same time; *And provided further*, That if any per-

son or persons shall be duly licensed under this act as a foreign life insurance agent, or foreign fire insurance agent, and shall die before the expiration of the year for which such license was granted, it shall be lawful for his, her, or their executors or administrators to exercise and carry on the trade, business, pursuit, or occupation for which the license was granted until the expiration of the year for which it was granted. Every person applying to any Clerk of the Peace for a license under the provisions of this act shall, in addition to the fee for the use of the State mentioned in the third section of this act, pay to such Clerk of the Peace a fee of fifty cents for issuing the same. (*Ibid*, p. 33, § 6.)

**12.** It shall be the duty of every justice of the peace, sheriff, deputy sheriff, and constable within their respective counties, whenever he shall have knowledge that any person or persons, firm or company is or are engaged in, exercising, following, or carrying on any trade, business, pursuit, or occupation mentioned in the first section of this act, without having first obtained a license therefor as provided by this act, to make complaint or cause complaint to be made thereof before some justice of the peace of his county, who shall thereupon proceed according to the provisions of chapter ninety-seven of the Revised Code of the State of Delaware in relation to complaints made before him in other criminal cases, and all existing provisions of law relative to misdemeanors and offenses shall extend and apply to offenses created by this act, so far as the same are applicable and are not inconsistent herewith. Every person exercising or carrying on any trade, business, pursuit, or occupation named in the first section of this act shall, on demand of any justice of the peace, sheriff, deputy sheriff, constable, or citizen within this State, produce the license therefor, and unless he shall do so it shall be presumptive evidence that he has no license. (*Ibid*, p. 35, § 9.)

**13.** Every person, or persons, association of individuals, or corporation who shall, within the limits of this State, be engaged in, pursue, or follow the business or occupation of insuring property against loss by fire shall, on the first Tuesday in the month of July next after the passage of this act, and on the same day annually and every year thereafter, while they shall continue in such business, pay to the State Treasurer, for the use of the State, a tax of one hundred dollars; *Provided*, That where two or more persons are associated together and carrying on the business or occupation of insuring property against loss by fire, it shall not be necessary for each of the persons composing such association to pay the said tax, but the payment thereof by such association collectively shall be sufficient. (*Ibid*, § 11.)

**14.** If any person or persons, or association of individuals, who shall be engaged in, pursue, or follow the business or occupation of insuring property against loss by fire shall refuse, fail, or neglect to pay to the State Treasurer the tax imposed by the next foregoing section of this act, within five days after the same shall become due and payable, such person or persons, or the individuals composing any such association so refusing, failing, or neglecting, besides being liable to pay the tax imposed by the next foregoing section shall be deemed guilty of a misdemeanor, and upon conviction thereof by indictment shall forfeit and pay a fine of not less than five hundred dollars nor more than two thousand dollars, besides costs. And if any corporation liable to the tax imposed by

the next foregoing section of this act shall refuse, fail, or neglect, for the space of five days after the same shall be due and payable, to pay the State Treasurer the tax imposed by the next foregoing section of this act, such refusal, failure, or neglect shall work a revocation of the charter of such corporation so refusing, failing, or neglecting, and the president and directors of such corporation so refusing, failing, or neglecting, as aforesaid, shall be deemed guilty of a misdemeanor, and upon conviction thereof by indictment shall forfeit and pay a fine of not less than five hundred dollars, nor more than two thousand dollars, besides costs, and the individual property of such president and directors shall also be liable for the payment of the tax imposed by the next foregoing section of this act. *And further*, In case of any person, or persons, company, or association of individuals as aforesaid, so refusing, failing, or neglecting to pay the tax for which he, she, or they are liable under the next foregoing section of this act, within the time appointed for the payment thereof, it shall be unlawful for him, her, or them thereafter to be engaged in, pursue, follow, or carry on the business or occupation of insuring property against loss by fire within this State, and if he, she, or they shall thereafter presume to engage in, pursue, follow, or carry on said business or occupation of insuring property against loss by fire within this State, he, she, or they shall be deemed guilty of a misdemeanor, and upon conviction thereof by indictment shall forfeit and pay a fine of not less than five hundred dollars, nor more than two thousand dollars, besides costs. (*Ibid*, p. 36, § 12.)

**15.** The Court of Chancery shall have jurisdiction and power, and upon the application of the State Treasurer, on behalf of the State, it shall be the duty of the Chancellor to restrain, by injunction process, any breach of the next foregoing section of this act attempted to be committed by any person, or persons, company, or association of individuals by engaging in, pursuing, or carrying on the business or occupation of insuring property against loss by fire after a refusal, failure, or neglect to make payment to the State Treasurer of the tax imposed by section eleven of this act, within the time limited for the payment thereof. *And further*, In case of any refusal, failure, or neglect by any corporation liable to the payment of the tax imposed by section eleven of this act to make the payment to the State Treasurer of the tax imposed by said section eleven, within the time appointed for the payment thereof, the State Treasurer shall report the fact immediately to the General Assembly, if in session, or at the next meeting, either regular or adjourned, and also to the Attorney-General, whose duty it shall be to proceed without delay against the said corporation, in the proper tribunal, to carry the aforesaid revocation into effect. (*Ibid*, § 13.)

**16.** That it shall be the duty of the State Treasurer to enforce the payment of the tax imposed by section eleven of this act, and for this purpose all the provisions of chapter twenty-nine of the Revised Code of this State, conferring powers and duties upon that officer and his collectors, in relation to the execution of the warrant issued to him by the Auditor of Accounts for the collection of the State tax, shall be vested in and may be exercised by him and them in the collection of the tax imposed by said section eleven of this act. (*Ibid*, p. 37, § 14.)

**17.** In any case where any insurance company, not incorporated by this State, shall have an agency, transact any business, or

issue policies of insurance upon any property or life, within any county in this State, it shall and may be lawful to institute and commence an action against such insurance company in such county, and the original writ may be served upon the president, agent, chief or other clerk, or upon any director or agent of such company, within such county, and such service shall be good and valid in law, to all intents and purposes. For the purpose of this act the receiving of a premium of insurance for transmission to such company or otherwise, constitutes the receiver thereof their agent. (*Laws of 1875, p. 303, § 1.*)

**18.** A married woman may, in her own name, or otherwise, effect insurance for her sole use, on the life of her husband, for any definite period, or for the term of his life; and if she survive him, the sum due upon such insurance, shall be payable to her, for her own use, free from the claims of the creditors or representatives of her husband; but such exemption shall not apply where the amount of premium annually paid, shall exceed one hundred and fifty dollars.

In case of the wife's death before the husband, the amount of such insurance may be made payable to her children or grandchildren. (*Revised Statutes, 1874, p. 478, § 3.*)

**19.** If any person shall willfully and maliciously burn, or set on fire any dwelling-house of another, or any store, or other building, adjoining to, or parcel of a dwelling-house of another, such person shall be deemed guilty of arson and felony, and shall suffer death. (*Revised Statutes, 1874, p. 770, § 1.*)

**20.** If any person shall willfully and maliciously burn or set on fire the court-house in either of the counties of this State, or any house or office, wherein public records are kept, he shall be deemed guilty of felony, and shall be fined one thousand dollars, stand one hour in the pillory, shall be whipped with sixty lashes, shall be imprisoned not exceeding twenty years. (*Ibid, p. 771, § 2.*)

**21.** If any person shall willfully and maliciously burn, or set on fire any ship, or other vessel, any mill, any building part of a manufacturing establishment, or used in carrying on any manufacture or trade, any granary, warehouse, store, shop, barn, stable, or out-house, the property of another (other than, and except such houses as are embraced in the preceding sections); or shall willfully and maliciously burn or set on fire any magazine, church, chapel, meeting-house, academy, or school-house, such persons shall be deemed guilty of felony, and shall be fined not less than one hundred nor more than five hundred dollars; and in case of the destruction of private property, shall restore and pay to the owner thereof two-fold the value thereof, shall stand one hour in the pillory, shall be whipped with not more than twenty lashes, shall be imprisoned for not more than six years. (*Ibid, § 3.*)

**22.** If any person, being the owner, or tenant, of any house or building, shall willfully burn the same with intent thereby to defraud or prejudice any person, or corporation, that shall have underwritten any policy of insurance thereon, or on any goods, wares, or merchandise therein, such person shall be deemed guilty of felony, and shall be fined four-fold the sum insured on such houses or goods. (*Ibid, § 4.*)

**23.** If any person shall willfully and maliciously burn, or set on fire any wheat, or other grain, hay [corn fodder] or straw, any boards, shingles, or other lumber, or any coals of another, he shall



be deemed guilty of a misdemeanor, and shall be fined not exceeding one thousand dollars, shall stand one hour in the pillory, shall be imprisoned not exceeding one year, and, in case of the destruction of private property, shall restore and pay to the owner thereof two-fold the value thereof. And if a fire, so set to such wheat, grain, or other property, or to any building, ship, or vessel, shall spread, the person so setting the same on fire, shall be deemed guilty of burning, or setting on fire every dwelling-house, ship, vessel, building, or other property to which such fire shall extend. (*Ibid*, § 5.)

**24.** If any person shall willfully and maliciously attempt to set on fire any dwelling-house, or other building, any ship, vessel, wheat, grain, hay, straw, boards, shingles, lumber, or coals of another, he shall be deemed guilty of a misdemeanor, and shall be fined not exceeding five hundred dollars, shall be imprisoned not exceeding two years. (*Ibid*, § 6.)

**25.** For General Provisions relating to Corporations see Revised Statutes, 1874, pp. 376, 380.

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## INSURANCE STATUTES OF THE DISTRICT OF COLUMBIA.

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1. The second section of the act entitled "*An act to continue, alter, and amend the charter of the city of Washington,*" approved May seventeen, eighteen hundred and forty-eight, shall be so amended as to read, "To license, tax, and regulate agencies of all kinds of insurance companies; *Provided*, That the tax or license shall not exceed one per centum upon the cash premiums received. (*U. S. Statutes* 1865-1867, p. 433.)

2. Every agent for life or fire insurance companies, whose principal office is beyond the limits of the District of Columbia, shall obtain a separate license for each company he may be agent for; *Provided*, That licensed insurance agents may employ solicitors of insurance without the payment of an additional license. (*Laws of 1871*, p. 92, § 20.)

3. Fire insurance companies shall pay annually fifty cents on each thousand dollars of capital invested. Every company, firm, or corporation whose business it is to grant policies of insurance for buildings of any kind, boats, vessels, and ships, furniture, or merchandise, against loss by fire, shall be regarded as a fire insurance company. (*Ibid*, p. 97, § 21, *clause* 29.)

4. Life insurance companies shall pay annually fifty cents on each thousand dollars of capital invested. Every company, firm, or corporation whose business it is to insure the life of any person, or who may agree to pay to the person insured any sum of money, in case of accident to said person, or who may agree, on conditions, to pay to the person insured an annuity, shall be regarded as a life insurance company. (*Ibid*, § 21, *clause* 30.)

5. Insurance agents shall pay annually fifteen dollars, and, in addition, a semi-annual tax of one per centum on the gross receipts of such agency, whether such receipts are in cash or notes for the part payment of premiums. Every person whose business it is to act as agent for any life or fire insurance company, whose principal office is located beyond the District of Columbia, shall be regarded as insurance agents; *Provided*, That in case where any person is agent for more than one company, the license tax of fifteen dollars shall be paid for each company; *Provided further*, That non-resident insurance agents shall pay two hundred and fifty dollars annually. Every agent or solicitor of insurance, whose office and residence is beyond the limits of the District of Columbia, shall be regarded as a non-resident insurance agent. (*Ibid*, p. 98, § 21, *clause* 31, *as amended by Laws of 1872*, p. 63, § 1.)

6. Every person liable for license tax, who failing to pay the same within thirty days after the same has become due and payable, for such neglect shall, in addition to the license tax imposed, pay a fine or penalty of not less than five nor more than fifty dollars, and a like fine or penalty for every subsequent offense. (*Laws of 1871*, p. 88, § 4.)

## ARSON AND INCENDIARISM.

7. Every person convicted of the crime of maliciously, willfully, or fraudulently burning any dwelling-house, or any other house, barn, or stable adjoining thereto, or any store, barn, or out-house having goods, tobacco, hay, or grain therein, although the same shall not be adjoining to any dwelling-house; or of maliciously, willfully, or fraudulently, and with intent to injure or defraud any other person or persons, or body politic or corporate, burning or setting on fire with intent to burn, or attempting to set on fire or burn, any house or out-house in the District, whether the same be finished or in process of erection, though such house or out-house shall not, at the time of such burning or setting on fire, or attempting to set on fire or burn, have any goods, tobacco, hay, or grain therein, nor be adjoining to any dwelling-house, nor be occupied or used for any purpose whatever; or of maliciously and willfully burning any of the public buildings in the District belonging to the United States or to the District, or any church, meeting-house, or other building for public worship, belonging to any voluntary society or body corporate, or any college, academy, school-house, or library, or any ship or vessel afloat or building, or as being accessory thereto, shall be sentenced to suffer imprisonment and labor for a period of not less than one nor more than ten years for the first offense, and not less than five nor more than twenty years for the second offense. (*Revised Statutes U. S. relating to D. C.*, 1875, p. 132, § 1151.)

## EMBEZZLEMENT.

8. If any clerk, or servant of any private person, or any co-partnership (except persons within the age of sixteen years), or any officer, agent, clerk, or servant of any incorporated company, shall embezzle or convert to his own use, or fraudulently take, make way with, or secrete, with intent to embezzle or fraudulently convert to his own use, without the assent of his master or employers, any money, goods, rights of action, Government bonds, United States Treasury notes, or Government stamps, or other valuable security or effects whatever, belonging to any other person, which shall come into his possession or under his care by virtue of such employment or office, he shall, upon conviction, be punished in the manner prescribed by law for feloniously stealing property of the value of the article or property so embezzled, taken, or secreted, or of the value of any sum of money payable or due upon any right in action so embezzled. (*Revised Statutes U. S. relating to D. C.*, 1875, p. 135, § 1169.)

9. For General Provisions relating to Corporations see U. S. Statutes 1869-1871, pp. 98-116.



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# INSURANCE STATUTES OF FLORIDA.

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*Revised by Hon. W. A. Cocke, Attorney-General.*

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## CONSTITUTIONAL PROVISIONS CONCERNING CORPORATIONS.

**1.** The Legislature shall provide by general laws for incorporating such municipal, educational, agricultural, mechanical, mining, and other useful companies or associations as may be deemed necessary. (*Art. 4, § 22.*)

**2.** The property of all corporations, whether heretofore or hereafter incorporated, shall be subject to taxation, unless such property be held and used exclusively for religious, educational, or charitable purposes. (*Art. 16, § 24, as amended.*)

**3.** It shall not be lawful for any agent or agents of any insurance company incorporated by any other State than the State of Florida, nor for any insurance company organized under the laws of this State, or their agents, directly or indirectly, to take any risks or transact any business of insurance in this State without such company has first obtained a certificate of authority from the State Treasurer; and before obtaining such certificate such insurance company shall furnish the said Treasurer with a statement, under the oath of the president or vice-president and secretary of the company, showing:

*First.*—The name and locality of the company.

*Second* —The amount of its capital stock, and the amount paid up.

*Third.*—The amount of its accumulations.

*Fourth.*—The assets of the company, including :

1. The amount of cash on hand and in the hands of agents or other persons.

2. The real estate unincumbered.

3. The bonds owned by the company, and how they are secured, with rates of interest thereon, and schedule.

4. Debts to the company secured by mortgage.

5. Debts otherwise secured.

6. Debts for premiums.

7. All other securities.

*Fifth.*—The amount of liabilities due or not due banks or other creditors by the company.

*Sixth.*—Losses adjusted and due.

*Seventh.*—Losses adjusted and not due.

*Eighth.*—Losses unadjusted.

*Ninth.*—Losses in suspense, waiting for further proof.

*Tenth.*—All other claims against the company.

*Eleventh.*—The greatest amount insured in any one risk.

*Twelfth.*—The act of incorporation of such company.

*Thirteenth.*—The amount of gross receipts of such company in the State of Florida during the preceding year.

It shall be the duty of the Board to be caused to be prepared, and to furnish to each insurance company, printed forms of the statement required by this section. Such statement shall be filed in the office of said insurance company, together with a written agreement, under the seal of the company, signed by the president and secretary thereof, and agreeing on the part of the company that service of process in any civil action against such company may be made upon any agent of the company in this State, and authorizing such agent, for and in behalf of such company, to admit such service of process on him, and agreeing that the service of process upon any agent shall be valid and binding upon the company as if made upon the president or secretary thereof. (*Laws of 1872, p. 9, § 1.*)

4. No insurance company, or agent or agents thereof, shall transact any business of insurance in this State unless such company is possessed of at least one hundred and fifty thousand dollars in value, invested in United States or State bonds, or other bankable interest-bearing stocks of the United States, at their market value. Upon complying with the preceding section, and upon furnishing evidence to the satisfaction of the Board of Insurance Commissioners hereinafter provided for, that such company has actually invested the amount above stated in such securities as hereinbefore mentioned, the State Treasurer shall issue a certificate thereof, with authority to such company to transact the business of insurance in this State; *Provided*, That insurance companies organized under the laws of this State shall be entitled to such certificate of authority by furnishing evidence to the satisfaction of said Treasurer that such company is possessed of, and has actually invested, at least twenty-five thousand dollars in United States or State bonds, or other bankable interest-bearing stock of the United States, at their market value, and by otherwise complying with the provisions of this act; *Provided*, That insurance companies incorporated under the laws of this State shall be exempted from the operation of this act until the next annual statement is required to be made; *Provided further*, That life insurance companies organized under the laws of any other State shall be entitled to such certificate of authority by furnishing evidence to the satisfaction of said Treasurer that such company is possessed of, and has actually invested, one hundred thousand dollars in United States or State bonds, or other bankable interest-bearing stocks of the United States, at their market value, or in mortgages on unincumbered real estate worth double the amount loaned thereon, inclusive of buildings thereon. (*Ibid, p. 10, § 2.*)

5. The State Treasurer, Comptroller, and Attorney-General are hereby created a Board of Insurance Commissioners, whose duty it shall be to examine into the affairs of any insurance company doing business, or applying to do business, in this State. And it shall be the duty of the officers or agents of each insurance company, at their own expense, whenever so required by the said Treasurer, to cause their books to be opened for the inspection of said Board, and otherwise to facilitate such examination as far as it may be in their power to do; and for that purpose the said board shall have power to examine under oath the officers or agent of such company relative to the business of and securities possessed by such company; and whenever the said Treasurer shall deem it for the interest of the

public so to do he may publish the result of such examination in one or more newspapers of the State. (*Ibid*, p. 11, § 3.)

6. Whenever any insurance company doing business in this State, upon a reasonable request of said Treasurer, shall refuse to comply with any of the provisions of the foregoing section, and whenever it shall appear to the said Board upon such examination that in their opinion the assets of any such company are insufficient under the provisions of this act to justify the continuance in business of any such company, or that the condition of such company is unsound, the Board of Insurance Commissioners shall forthwith revoke the certificate of authority granted in behalf of such company, and shall cause a notification thereof to be published in some newspaper published at the capital, and such company, or the agent or agents of the same, is, after such notice, required to discontinue the issuing of any new policy, and the renewal of any previously issued; and whenever it shall appear upon such examination that any insurance company, its officers, or agents, have violated any of the provisions of this act, the said Board shall forthwith report the facts, with such statements and remarks as the Board may deem expedient, to the Attorney-General, who shall at once prosecute said company, officer, or agent. (*Ibid*, § 4.)

7. The State Treasurer shall annually, in his report to the Legislature, exhibit an abstract of all the returns and statements made and accepted under the provisions of this act during the year, with such other information in regard to the condition of the various insurance companies doing business in this State as he may deem necessary for the public interest; and he shall also, within a reasonable time after the passage of this act, and annually thereafter in the month of February, publish in some newspaper published at the capital a list of all insurance companies authorized to do business in this State, showing in a tabular form the assets, liabilities, and other essential data and information regarding the statements made and accepted under the act. (*Ibid*, § 5.)

8. The statement and evidences of investment required by this title shall be renewed annually in the month of January in each year. The first statement may be made at any time. The Board, on being satisfied that the capital, securities, and investments remain secure as at first, shall furnish a renewal of certificate as aforesaid, the certified copy of which, with the certified copy of the statement upon which the same was obtained, shall be filed, kept, and published in the same manner, and be governed in all respects by the provisions of section one of this act. (*Ibid*, p. 12, § 6.)

9. Any person or firm in this State who receives or receipts for any money on account of or for any contract of insurance made by him or them, or for any such insurance company or individual aforesaid, or who receives or receipts for money from other persons to be transmitted to any such company or individual aforesaid, for a policy of insurance, or any renewal thereof, although such policy of insurance is not signed by him or them as agent or agents of such company, or who in any wise directly or indirectly makes or causes to be made any contract or contracts of insurance for or on account of such insurance company, shall be deemed to all intents and purposes an agent or agents of such company, and shall be subject and liable to all provisions, regulations, and penalties of this act. (*Ibid*, § 7.)

10. Whenever a judgment for the recovery of any money has



heretofore been, or hereafter may be, recovered in any of the courts of this State against any insurance company, or against any association, partnership, firm, or individual engaged in the business of insurance, and holding a certificate of authority therefor from the State Treasurer under the laws of this State, and an execution thereon is issued and duly returned unsatisfied in whole or in part, and proof is made by any person by filing with the State Treasurer a certified transcript of the docket of such judgment, together with a certificate of the clerk of the court in the county where the judgment roll in such action is filed, and the judgment therein is docketed, that an execution has been issued on such judgment to the proper officer of such county and returned unsatisfied in whole or in part, with the date of issuing and return, the State Treasurer shall forthwith revoke all authority or license for the transaction of any kind of insurance business within this State conferred upon such insurance company, association, partnership, firm, or individual by any certificate therefor granted by said Treasurer to such company, association, partnership, firm, or individual under the provisions of this act, and shall withhold therefrom any new certificate of authority such as is contemplated herein, until such judgment so docketed against such company, association, partnership, firm or individual is wholly paid and satisfied, and proof thereof filed with such State Treasurer by the official certificate of the clerk of the court in the county where the judgment roll is filed and judgment is docketed, showing that the same is satisfied of record, and until the expenses and fees incurred in the case under the provisions of this title are also paid by such company, association, partnership, firm, or individual; and the State Treasurer shall also forthwith cause notice of such revocation of authority to be published in some daily or weekly newspaper printed and published in the city of Tallahassee or Jacksonville for at least one week; and during the time such authority or license remains so revoked it shall be unlawful for the company, association, partnership, firm, or individual holding such revoked certificate of authority, or any of its agents or officers, to issue or renew any policies of insurance, take any risks, or transact any business relating to insurance, except such as is absolutely necessary in closing up its affairs in this State. (*Ibid*, § 8.)

**11.** Any person violating the provisions of this act within this State shall, upon conviction in any court of competent jurisdiction, be fined in any sum not exceeding one thousand dollars, or imprisoned in the county jail not more than six months, or both, in the discretion of the court; and any company that wilfully makes false returns or statements under the provisions of this act, shall be liable to a fine of not less than five hundred nor more than five thousand dollars. (*Ibid*, p. 13, § 9.)

**12.** For the services required to be rendered by the provisions of this title, the State Treasurer shall receive a fee of five dollars, to be paid by the companies for each statement made and accepted. (*Ibid*, § 10.)

**13.** Insurance agents shall pay for license ten dollars for each company represented by them, and each insurance company doing business in this State shall pay to the State Treasurer two hundred dollars for license before any of its agents can transact business for it. Any insurance agent neglecting to pay the license provided for in this section, or who acts as the agent of any company neglecting to pay the license provided for in this section, shall be deemed

guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine of not less than fifty dollars, or be confined in the county jail for a term not exceeding six months. (*Laws of 1874, p. 12, § 11, paragraph 5.*)

#### LIFE INSURANCE FOR THE BENEFIT OF HUSBAND OR WIFE.

**14.** Whenever any person shall die in this State leaving insurance upon his or her life, the said insurance shall inure exclusively to the benefit of his or her child or children, husband or wife, in equal portions, or to any other person or persons for whose use and benefit said insurance is declared in the policy; and the proceeds thereof shall in no case be liable to attachment, garnishment, or any legal process by any creditor or creditors of the person whose life was so insured, unless said policy declares that said insurance was effected for the benefit of such creditor or creditors. (*Laws of 1872, p. 13, § 1.*)

#### ARSON AND INCENDIARISM.

**15.** Whoever willfully and maliciously burns the dwelling-house, or any building adjoining such dwelling-house, or willfully and maliciously sets fire to any building, by the burning whereof such dwelling-house is burnt, shall be punished by imprisonment in the State penitentiary for life, or for such time as the Court may direct. (*Digest of Statute Law, 1872, p. 219, § 1.*)

**16.** Whoever willfully and maliciously burns, in the night time, a meeting-house, church, court-house, town-house, college, academy, jail, or other buildings erected for public use, or a banking-house, warehouse, store, manufactory, or mill of another (being, with the property therein contained, of the value of one thousand dollars), or a barn, stable, shop, or office, within the curtilage of a dwelling-house, or any other building, by the burning whereof any building mentioned in this section is burnt in the night time, shall be punished by imprisonment in the State penitentiary for life, or for such time as the Court may direct. (*Ibid, § 2.*)

**17.** Whoever willfully and maliciously burns, in the day time, any building mentioned in the preceding section, the punishment for which, if burnt in the night time, would be imprisonment in the State penitentiary for life, shall be punished by imprisonment in the State penitentiary not exceeding ten years. (*Ibid, § 3.*)

**18.** Whoever willfully and maliciously burns a banking-house, warehouse, store, manufactory, mill, barn, stable, shop, out-house, or other building whatsoever, of another, other than is mentioned in section 2, or a bridge, lock, dam, or flume, or a sloop or vessel of another, shall be punished by imprisonment in the State penitentiary not exceeding ten years. (*Ibid, § 4.*)

**19.** Whoever willfully and maliciously burns, or otherwise destroys or injures a pile or parcel of wood, boards, timber, or other lumber, or any fence, bars, or gate, or a stack of grain, hay, or other vegetable product, or any vegetable product severed from the soil and not stacked, or any standing trees, grain, grass, or other standing product of the soil, or the soil itself of another, shall be punished by imprisonment in the State penitentiary not exceeding

five years, or by a fine not exceeding five thousand dollars and imprisonment in the county jail not exceeding one year. (*Ibid*, § 5.)

**20.** Whoever burns a building, or any goods, wares, merchandise, or other chattels, which are at the time insured against loss or damage by fire, with intent to injure the insurer, whether such person is the owner of the property burnt or not, shall be punished by imprisonment in the State penitentiary not exceeding twenty years. (*Ibid*, p. 220, §7.)

### EMBEZZLEMENT.

**21.** Whoever embezzles, or fraudulently converts to his own use, money, goods, or property delivered to him, which may be the subject of larceny, or any part thereof, shall be deemed guilty of larceny and punished accordingly. (*Digest of Statute Law*, 1872, p. 223, § 30.)

**22.** If an officer, agent, clerk, or servant of any incorporated company, or if a clerk, agent, or servant of any private person or copartnership (except apprentices and other persons under the age of sixteen years), embezzles or fraudulently converts to his own use, or takes, or secretes, with intent so to do, without consent of his employer or master, any property of another which has come to his possession, or is under his care by nature of such employment, he shall be deemed guilty of larceny, and punished accordingly. (*Ibid*, § 33.)

**23.** For general provisions relating to corporations see *Digest of Laws*, 1872, pp. 165-173; *Laws of 1872*, pp. 23-25; *Laws of 1874*, pp. 94, 95.

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# INSURANCE STATUTES OF GEORGIA.

*Revised by Hon. W. L. Goldsmith, Comptroller-General.*

## CONSTITUTIONAL PROVISIONS CONCERNING CORPORATIONS.

**1.** The General Assembly shall have no powers to grant corporate powers and privileges to private companies, except to banking, insurance, railroad, canal, navigation, mining, express, lumber, manufacturing, and telegraph companies. (*Art. 3, § 6.*)

## INSURANCE COMPANIES AND AGENCIES.

**2.** It shall not be lawful for any insurance company, or agent of the same, excepting masonic, odd fellows, and religious mutual aid societies already chartered by this State, to transact any business of insurance without first procuring a certificate of authority from the Comptroller General of this State; and before obtaining such certificate, such company must furnish the Comptroller-General with a statement under oath, specifying:

*First.*—The name and locality of company.

*Second.*—The condition of such company on the thirty-first day of December then next preceding, exhibiting the following facts and items in the following form, namely:

*First.*—The amount of the capital stock of the company, and what part of the same has been paid up in cash, and what part is in notes of the stockholders, and how such notes are secured.

*Second.*—The property or assets held by the company, specifying:

1. The value, or as nearly as may be, of the real estate held by such company.

2. The amount of cash on hand and deposited in banks to the credit of the company.

3. The amount of cash in the hands of agents, and in the course of transmission.

4. The amount of loans secured by bonds and mortgages on real estate.

5. The amount of other loans, and how secured.

6. The amount of stocks of this State, of other States in the United States, and of any other stocks owned by the company, specifying the amount, number of shares, and par and market value of each kind of stock.

7. The amount or interest actually due and unpaid.

8. The amount of premium notes on hand upon which policies have been issued:

*Third.*—The liabilities of the company, specifying:

1. The amount of losses due and yet unpaid.

2. Amount of claims for losses resisted by the company.

3. The amount of losses not yet due, including those reported to the company, on which no action has yet been taken.

4. The amount of dividends declared and due, and remaining unpaid.

5. The amount of dividends declared, but not yet due.

6. The amount of money borrowed.

7. The amount of all other claims against the company.

*Fourth.*—The income of the company during the preceding year, specifying:

1. The amount of the cash premiums received.

2. The amount of notes received for premiums.

3. The amount of interest money received.

4. The amount of income received from other sources.

*Fifth.*—The expenditures during the preceding year, specifying:

1. The amount of losses paid during the year.

2. The amount of dividends paid during the year.

3. The amount of expenses paid during the year, including fees and commissions to agents and officers of the company.

4. The amount paid in taxes.

5. The amount of all other payments and expenditures.

*Sixth.*—The greatest amount insured in any one risk.

*Seventh.*—A certified copy of the act incorporating the company. (*Laws of 1869, p. 127 § 1.*)

**3.** The said statement shall be filed in the office of the Comptroller-General. No company, excepting masonic, odd fellows, and religious mutual aid societies, already chartered by this State, shall be allowed to transact any business of insurance in this State, unless possessed of at least one hundred thousand dollars of actual cash capital, paid in, or assets, and invested in bonds and stocks, estimated at their actual market value at the date of such statement, and in mortgages on real estate worth double the amount for which the same is mortgaged. (*Ibid, p. 128, § 2.*)

**4.** Upon filing such statement, as aforesaid, the Comptroller-General, when satisfied that the statement is correct, and that the company has fully complied with the provisions of this act, shall issue a certificate of authority to transact business of insurance in this State, to the company applying for the same, and to all agents such company may appoint and commission. (*Ibid, p. 129, § 3.*)

**5.** Said statement must be renewed annually, on the first day of January in each year, or within sixty days thereafter, and if the Comptroller-General is satisfied that the capital, securities, and investments remain secured as at first, he shall furnish a renewal of the certificate. Insurance companies shall not be required to furnish but the single statement annually. The Comptroller-General shall be entitled to a fee for examining and filing each statement of such companies, of seven and one-half dollars, and for certificates to agents, of two and one-half dollars, which fees shall be paid by the company or agent filing the said statement, and to whom certificates are to be issued. (*Ibid, § 4.*)

**6.** Whenever the existing or future laws of any other State of the United States shall require of insurance companies incorporated by this State, and having agencies in such other State, or of the agents thereof, any deposit of securities in such State, for the protection of policy-holders, or otherwise, or any payment for taxes, penalties, certificates of authority, license fees, or otherwise, greater than the amounts required for such purposes from similar companies

of other States by the then existing laws of this State, then and in every such case, all companies of such States establishing, or having heretofore established, an agency or agencies in this State, shall be, and are hereby, required to make the same deposit, for a like purpose, with the Comptroller-General of this State, and to pay to said Comptroller-General for taxes, fines, penalties, certificates of authority, license fees and otherwise, an amount equal to the amount of such charges and payments imposed by the laws of such State upon companies of this State and agents thereof. (*Ibid*, § 5.)

7. That all persons violating the provisions of this act shall be liable to indictment, and on conviction, shall be fined not less than one hundred dollars, nor more than five hundred dollars, at the discretion of the jury and court trying the same. (*Ibid*, § 6.)

### TAXATION OF INSURANCE COMPANIES.

8. The returns of all insurance companies, and agents of foreign companies, authorized in this State, shall be made to the Comptroller-General by the first day of May in each year, and the taxes thereof shall be paid to the State Treasurer by the first day of October in each year. (*Revised Code*, 1873, p. 146, § 826.)

9. The returns of all companies, or persons, required to be made to the Comptroller-General must be in writing, and sworn to by the presiding officer, or agent, of a foreign company to be a just, true, and full return of capital stock, net annual profits, or other property or effects, for which said company is subject to taxation by the laws of this State. (*Ibid*, § 832.)

10. Such payments must be made in the funds in which taxes may be paid at the State Treasury, free of any expense to the State. (*Ibid*, p. 147, § 833.)

11. If any corporation, company, person, agency, or institution, who are required to make their returns to the Comptroller-General, shall fail to return the taxable property or specifics, or pay annually the taxes for which they are liable to the State Treasurer, the Comptroller-General shall issue against them an execution for the amount of taxes due, according to law, together with the costs and penalties. (*Ibid*, p. 152, § 876.)

12. The penalty against all such corporations shall be the forfeiture of their charters, and if not chartered by this State, then the immediate suspension of their business therein. (*Ibid*, § 877.)

13. The penalty or default tax on corporations, where there is no special provision, shall be three times the amount of their lawful tax. (*Ibid*, § 878.)

14. The penalty or default tax on foreign insurance companies shall be five hundred dollars. (*Ibid*, § 879.)

15. When there is no return by which to assess the tax, the Comptroller-General shall, from the best information he can procure, assess in his discretion. (*Ibid*, § 881.)

16. The executions issued by the Comptroller-General against any company shall be directed to all and singular the Sheriffs and other lawful officers of this State, with directions to levy the same on the property of the corporation or company, with power to issue and serve garnishments upon the debtors of the corporation. (*Ibid*, § 882.)

17. The executions against agents of foreign institutions, as



aforesaid, shall be against the principal agent or his successor, and shall authorize the officer to levy on all the property of the agency, to seize its money, notes or other effects. (*Ibid*, § 883.)

In addition to the *ad valorem* tax on real and personal property, as required by the constitution, the following specific taxes shall be levied and collected :

**18.** Upon each agent of any insurance company doing business in this State, the sum of fifteen dollars. (*Laws of 1875, p. 116, § 2.*)

**19.** All home and foreign insurance companies doing business in this State, shall pay one per cent. on all premiums in money, or otherwise received by them, and in addition to the tax herein imposed upon gross receipts of insurance companies, all such companies shall be taxed upon their capital in the same manner, and at the same rate, as herein provided for banks and bankers. (*Ibid, p. 116, § 3.*)

**20.** No assessment or payment of tax to the State is to exonerate the person from taking out license from the county, or city, or incorporated town, in cases where they are required by law so to do. (*Revised Code, 1873, p. 143, § 811.*)

## CONTRACTS OF INSURANCE—FIRE INSURANCE.

**21.** The contract of fire insurance is one whereby an individual or company, in consideration of a premium paid, agrees to indemnify the assured against loss by fire to the property described in the policy, according to the terms and stipulations thereof. Such contract to be binding must be in writing; but delivery is not necessary if in other respects the contract is consummated. (*Revised Code, 1873, p. 485, § 2794.*)

**22.** To sustain any contract of insurance it must appear that the assured has some interest in the property or event insured, and such as he represented himself to have. A slight or contingent interest is sufficient, whether legal or equitable, and several having different interests may unite in procuring one policy: so a husband or parent may insure the separate property of his wife or child, the recovery being held by him in trust for them; but a mere expectation of an interest is not insurable. (*Ibid, p. 486, § 2795.*)

**23.** If one undertakes to insure the interest of another, it must be done by his consent, or be subsequently ratified by him; but an insurer may reinsure to protect himself against loss on his contract. (*Ibid, § 2796.*)

**24.** A policy of insurance may be made to cover property changing daily in its specific articles, as a stock of goods. (*Ibid, § 2797.*)

**25.** The contract of insurance should be construed so as to carry out the true intention of the parties. (*Ibid, § 2798.*)

**26.** A loss or injury may incur from fire without the actual burning of the articles of property, as a house blown up to stop a conflagration, or goods removed in imminent danger, or damaged by water used to extinguish the flames. (*Ibid, § 2799.*)

**27.** If the loss has already occurred, and both parties are ignorant of it, the contract is valid; but the slightest grounds of suspicion known to the insured will vitiate the contract, unless made known to the insurer. (*Ibid, § 2800.*)

**28.** The assured is bound to ordinary diligence in protecting

the property from fire, and gross negligence on his part will relieve the insurer. Simple negligence by a servant, or the assured, unaffected by fraud or design in the latter, will not relieve the insurer. (*Ibid*, § 2801.)

**29.** Every application for insurance must be made in the utmost good faith, and the representations contained in such application are considered as covenanted to be true by the applicant. Any variation by which the nature, or extent, or character of the risk is changed, will void the policy. (*Ibid*, § 2802.)

**30.** Any verbal or written representations of facts by the assured to induce the acceptance of the risk, if material, must be true or the policy is void. If, however, the party has no knowledge, but states on the representations of others, *bona fide*, and so informs the insurer, the falsity of the information does not void the policy. (*Ibid*, § 2803.)

**31.** A failure to state a material fact, if not done fraudulently, does not void; but the willful concealment of such a fact, which would enhance the risk, will void the policy. (*Ibid*, § 2804.)

**32.** Any change in the property, or the use to which it is applied, without the consent of the insurer, whereby the risk is increased, voids the policy. (*Ibid*, § 2805.)

**33.** Willful misrepresentation by the assured, or his agent, as to the interest of the assured, or as to other insurance, or as to any other material inquiry made, will void the policy. (*Ibid*, p. 487, § 2806.)

**34.** An alienation of the property insured, and a transfer of the policy, without the consent of the insurer, voids it: but the mere hypothecation of the policy, or creating a lien on the property, does not void. (*Ibid*, § 2807.)

**35.** A policy issuing to several may be transferred to one of the assured, without the consent of the insurer. (*Ibid*, § 2808.)

**36.** A partial sale of property insured voids the policy only *pro tanto*. A sale not fully executed, and possession remaining with the assured, does not void. (*Ibid*, § 2809.)

**37.** After the loss occurs, a sale of the property and transfer of the policy does not affect the liability of the insurer, but the assignee may recover. (*Ibid*, § 2810.)

**38.** A transfer of the property or policy by operation of law, or under the order of the court, will confer on the assignee all the rights of the assured. (*Ibid*, § 2811.)

**39.** A second insurance on the same property, unless by consent of the insurer, voids his policy. (*Ibid*, § 2812.)

**40.** Every insurer has a right to prescribe regulations as to notice and preliminary proof of loss, which must be substantially complied with by the insured; *Provided*, The same are made known at the time of the insurance, and are not materially changed during the existence of the contract. An absolute refusal to pay waives a compliance with these preliminaries. (*Ibid*, § 2813.)

**41.** The assured may recover the full amount of his loss; *Provided*, The same is within the amount insured. If he has several policies on the same property, the recovery from each company will be *pro rata* as to the amount insured. (*Ibid*, § 2814.)

**42.** The value of property is to be estimated at the time of the loss. Contingent profits are not a part of such value. (*Ibid*, § 2815.)

**43.** The privilege of rebuilding or reinstating the property

must be reserved in the policy, or it does not exist. In such cases, the assured has no claim for rents, if done within a reasonable time, nor the insurer for increased value, from the fact of new and more valuable materials. (*Ibid*, § 2816.)

44. If, after payment of loss, the insurer discovers evidence to show himself not liable on the policy, he may recover back the money in an action for money had and received. (*Ibid*, § 2817.)

#### LIFE INSURANCE.

45. An insurance upon life is a contract by which the insurer, for a stipulated sum, engages to pay a certain amount of money if another dies within the time limited by the policy. The life may be that of the assured, or of another in whose continuance the assured has an interest. (*Ibid*, p. 488, § 2818.)

46. Contracts of life insurance can be taken only by persons or corporations specially authorized so to do by law. (*Ibid*, § 2819.)

47. The assured may direct the money to be paid to his personal representatives, or to his widow, or to his children, or to his assignee, and upon such direction, given and assented to by the insurer, no other person can defeat the same; but the assignment is good without such assent. (*Ibid*, § 2820.)

48. The principles before stated as to fire insurance, wherever applicable, are equally the law of life insurance. (*Ibid*, § 2821.)

49. Death by suicide, or by the hands of justice, either punitive or preventive, releases the insurer from the obligation of his contract. (*Ibid*, § 2822.)

50. A policy of life insurance runs from midday of the date of the policy, and the time must be estimated accordingly, if the policy is limited to a specified number of years. (*Ibid*, § 2823.)

#### MARINE INSURANCE.

51. A contract of marine insurance is one by which a person or corporation, for a stipulated premium, insures another against losses occurring by the casualties of the sea. (*Ibid*, § 2824.)

52. Prohibited or illegal commerce, or commerce with an enemy, or goods contraband of war, are not the subject of marine insurance. (*Ibid*, § 2825.)

53. Double marine insurance may be obtained by a party having an insurable interest; but in case of loss, he can recover from both companies only the full value of such interest. If one underwriter pays the whole amount, he is entitled to contribution from the others. (*Ibid*, § 2826.)

54. The assured impliedly warrants that the ship is seaworthy, and shall not be changed except from necessity, and that she shall be employed, conducted, and navigated with reasonable skill and according to law. (*Ibid*, p. 489, § 2827.)

55. The illegality of the voyage, whether known to the assured or not, renders the contract void. (*Ibid*, § 2828.)

56. A deviation from the voyage, if voluntary, and not from necessity, voids the policy. This necessity may arise from:

1. Stress of weather.
2. Want of necessary repairs.
3. Joining convoy.

4. Succoring ships in distress.
5. Avoiding capture or detention.
6. Sickness of master or crew.
7. Mutiny on board.
8. Any similar cause founded upon reason. (*Ibid*, § 2829.)

**57.** The "perils of the sea" comprehend all those misfortunes to which goods and ships at sea are exposed from earth, air, fire, or water. Loss from enemies is not included, unless expressly named. The negligence or unskillfulness of masters or mariners is not included in a policy on the ships or goods belonging to the owners of the vessel. If loss occurs to third persons therefrom, the underwriter may recover from the owner of the ship the amount paid by him. (*Ibid*, § 2830.)

**58.** Generally the risk continues till the goods are delivered on shore at the port of destination, or to others, by a direction of the assured. (*Ibid*, § 2831.)

**59.** Any change by which the risk is increased voids the policy. (*Ibid*, § 2832.)

**60.** An open policy is where the amount of the interest of the assured is not fixed by the policy, but is left to be adjusted in case of loss; such policies may issue in blank, to be filled by the insured as new risks may be desired. (*Ibid*, § 2833.)

**61.** The value stated in a policy is always subject to be reduced by proof. (*Ibid*, § 2834.)

**62.** The rules as to warranties, misrepresentations, and concealments are the same in marine as in fire insurance. (*Ibid*, § 2835.)

#### MUTUAL INSURANCE.

**63.** The contract of insurance is sometimes upon the idea of mutuality, by which each of the assured becomes one of the insurers, thereby becoming interested in the profits, and liable for the losses. Without a charter, such an organization would be governed by the general law of partnership; when incorporated, they are subject to the terms of their charter. (*Ibid*, p. 490, § 2836.)

**64.** The rules and regulations of such a company, adopted in pursuance of the charter, become a part of each policy, and all the assured are presumed to have notice thereof. But new conditions can not be annexed to the policy after it is issued, except by the consent of the assured. (*Ibid*, § 2837.)

**65.** The officers of such a company are the agents of all the assured, and to the extent of their misconduct or neglect, shall affect each, upon the general principles governing principal and agent, except as to the transaction of making the contract of insurance; up to the time of its execution, the assured stands as a third party, and the officer issuing the policy acts for those already in the company. (*Ibid*, § 2838.)

**66.** If a mutual insurance company, by dividends, reduces its available funds below the point of remaining able to meet all losses occurring on policies then in existence, the directors of such companies primarily, and the parties receiving the dividends, ultimately and *pro rata*, shall be liable individually, jointly, and severally, for the amount of such unpaid losses. (*Ibid*, § 2839.)

**67.** A stricter good faith, as to representations and conceal-



ments, should be required in mutual insurance than in any other similar contracts. (*Ibid*, § 2840.)

### SUITS AGAINST INSURANCE COMPANIES.

**68.** The several insurance companies of this State, and foreign insurance companies doing business in this State, in all cases when a loss occurs and they refuse to pay the same within sixty days after a demand shall have been made by the holder of the policy on which said loss occurred, they shall be liable to pay the holder of said policy, in addition to the said loss, not more than twenty-five per cent. on the liability of said company for said loss; also, all reasonable attorney's fees for the prosecution of the case against said company; *Provided*, It shall be made to appear to the jury trying the same that the refusal of the company to pay said loss was in bad faith. (*Laws of 1872, p. 43, § 1.*)

**69.** The form of an action to recover money on an insurance policy may be the same as prescribed in section 3315 of Irwin's Revised Code, for actions on notes, bills, bonds, receipts, and written promises; and it shall not be necessary to set forth, in the body of the declaration, allegations of conditions other than may be embraced in the form prescribed in said section of the code, nor shall it be necessary to attach a copy of what may be within or printed upon the policy, except what appears upon the face and in the body of the policy. (*Laws of 1872, p. 38, § 1.*)

### ARSON AND INCENDIARISM.

**70.** Arson is the malicious and willful burning of the house or outhouse of another. (*Revised Code, 1873, p. 792, § 4375.*)

**71.** The willful and malicious burning, or setting fire to, or attempting to burn a house in a city, town, or village, shall be punished with death. (*Ibid*, § 4376.)

**72.** The willful and malicious burning of an occupied dwelling-house of another, on a farm or plantation, or elsewhere, shall be punished with death, but the punishment may be commuted in conformity with the provisions of section 4323 of this Code. (*Ibid*, § 4377.)

**73.** The willful and malicious burning of an unoccupied dwelling house of another, on a farm, plantation, or elsewhere (not in a city), shall be punished by imprisonment and labor in the Penitentiary for a term not less than five nor longer than twenty years. (*Laws of 1874, p. 21, § 1.*)

**74.** Setting fire to the dwelling-house of another, with intent to burn the same, on a farm or plantation or elsewhere, not in a city, town, or village, shall be punished by imprisonment and labor in the penitentiary for a term not less than three years nor longer than seven years. (*Revised Code, 1873, p. 792, § 4378.*)

**75.** The willful and malicious burning of an outhouse of another, such as a barn, stable, or any other house (except the dwelling-house) on a farm or plantation, or elsewhere (not in a city, town, or village), shall be punished by imprisonment and labor in the penitentiary for any term not less than two years nor more than seven years. (*Ibid*, § 4379.)

**76.** Setting fire to the outhouse of another, as described in the preceding section, shall be punished by imprisonment and labor

in the penitentiary for any term not less than one year nor more than three years. (*Ibid*, § 4380.)

77. The crime of burning shall be complete where the house is consumed or generally injured. (*Ibid*, § 4381.)

78. The offense of setting fire to a house shall be complete when any attempt is made to burn it, though no mutual injury is the consequence. (*Ibid*, § 4382.)

79. The willful or malicious burning or attempting to burn, any railroad bridge within this State, shall be deemed and adjudged arson, and shall be punished with death; but the punishment may be commuted in conformity with section 4323 of this Code. (*Ibid*, § 4383.)

80. Arson in the day time (except in a city, town, or village, shall be punished by a shorter period of imprisonment and labor than arson committed in the night. (*Ibid*, § 4384.)

81. Arson which produces the death of any person, shall be punished by the death of the person or persons committing the arson; but the punishment may be commuted in conformity with the provisions of section 4323 of this Code. (*Ibid*, § 4385.)

82. It shall be the duty of his Excellency, the Governor of this State, whenever he shall receive reliable information that any gin house has been burned, or set on fire in violation of the laws of this State, to issue his proclamation, offering a reward of not less than five hundred dollars each, for the apprehension of the incendiary or incendiaries, with proof sufficient to convict. (*Laws of 1875, p. 104, § 1.*)

## EMBEZZLEMENT.

83. If any person, employed as a clerk, agent, or servant, or in any other character or capacity, in any store, warehouse, counting room, exchange office, shop, or other place of trade, traffic, or exchange, where, from the nature of the business or employment, it is necessary or usual to entrust to such person any goods, wares, or merchandise, cotton, corn, or other produce, money, notes, bills of exchange, bank notes, checks, drafts, orders for payment of money, or other valuable thing, or any other thing or article of value, shall fraudulently take and carry away, or convert to his own use, or otherwise dispose of any of the said goods, wares, or merchandise, cotton, corn, or other produce, money, notes, bills of exchange, bank notes, checks, drafts, orders, or other thing or things of value, thus entrusted to him, or committed to his charge, to the injury and without the consent of the owner thereof, or person thus entrusting him, such person so offending shall, on conviction, be punished by imprisonment and labor in the penitentiary for any time not less than one year, nor longer than five years. (*Revised Code, 1873, p. 798, § 4423.*)

84. For General Provisions relating to corporations. (*See Revised Code, 1873, pp. 288-299.*)

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# INSURANCE STATUTES OF ILLINOIS.

*Revised by Hon. C. E. Lippincott, Auditor of Public Accounts.*

## CONSTITUTIONAL PROVISIONS CONCERNING CORPORATIONS.

**1.** No corporation shall be created by special laws, or its charter extended, changed, or amended, except those for charitable, educational, penal or reformatory purposes, which are to be and remain under the patronage and control of the State; but the General Assembly shall provide, by general laws, for the organization of all corporations hereafter to be created. (*Art. 11, § 1.*)

**2.** The General Assembly shall provide by law, that in all elections for directors or managers of incorporated companies, every stockholder shall have the right to vote, in person or by proxy, for the number of shares of stock owned by him, for as many persons as there are directors or managers to be elected, or to cumulate said shares, and give one candidate as many votes as the number of directors, multiplied by the number of his shares of stock, shall equal, or to distribute them on the same principle among as many candidates as he shall think fit; and such directors or managers shall not be elected in any other manner. (*Art. 11, § 3.*)

## FIRE, MARINE, AND INLAND NAVIGATION.

**3.** Any number of persons, not less than thirteen, may associate and form an incorporated company, for the following purposes, to wit: To make insurance on dwelling-houses, stores, and all kinds of buildings, and upon household furniture and other property, against loss or damage by fire and the risks of inland navigation and transportation. Any and all insurance companies hereafter incorporated under the provisions of act, which shall, in the declaration and charter provided to be filed, have expressed an intention to make insurance, or which shall have power to make insurance against loss or damage by the risks of inland navigation or transportation, shall have power to make insurance upon vessels, boats, cargoes, goods, merchandise, freights and other property, against loss and damage by all or any of the risks of lake, river, canal, and inland navigation and transportation. (*Revised Statutes, 1874, p. 591, § 1.*)

**4.** Any companies organized under this act shall have power to effect re-insurance of any risks taken by them respectively. (*Ibid, § 2.*)

**5.** Such person shall file in the office of the Auditor of Public Accounts, a declaration, signed by all the corporators, expressing

their intention to form a company for the purpose of transacting the business of insurance, as expressed in the first section of this act, which declaration shall also comprise a copy of the charter proposed to be adopted by them; and shall publish a notice of such their intention once in each week for at least four weeks, in a public newspaper in the county in which such insurance company is proposed to be located. (*Ibid*, § 3.)

6. The charter comprised in such declaration shall set forth the name of the company, the place where the principal office for the transaction of its business shall be located, the mode and manner in which the corporate powers granted by this act are to be exercised, the mode and manner of electing trustees or directors—a majority of whom shall be citizens of this State—and of filling vacancies (but each director of a stock company shall be the owner in his own right of at least five hundred dollars worth of the stock of such company at its par value), the period for the commencement and termination of its fiscal year, and the amount of capital to be employed in the transaction of its business. And the Auditor of Public Accounts shall have the right to reject any name or title of any company applied for when he shall deem the name too similar to one already appropriated, or likely to mislead the public in any respect. (*Ibid*, § 4.)

7. No company formed under this act shall, directly or indirectly, deal or trade in buying or selling any goods, wares, merchandise or other commodities whatever, excepting such articles as may have been insured by such company and are claimed to be damaged by fire or water. (*Ibid*, § 5.)

8. No joint stock company shall be incorporated under this act in the city of Chicago, nor shall any company incorporated under this act establish any agency for the transaction of business in said city with a smaller capital than one hundred and fifty thousand dollars, actually paid in in cash, nor in any other county in this State with a smaller capital than one hundred thousand dollars actually paid in in cash. Nor shall any company formed under this act for the purpose of doing the business of fire or inland navigation insurance, on the plan of mutual insurance, commence business, if located in the city of Chicago, nor establish any agency for the transaction of business of said city, until agreements have been entered into for insurance with at least four hundred applicants, the premiums on which shall amount to not less than two hundred thousand dollars, of which forty thousand dollars at least shall have been paid in cash, and notes of solvent parties, founded on actual and *bona fide* application for insurance, shall have been received for the remainder; nor shall any mutual insurance company in any other part of the State commence business until agreements have been entered into for insurance with at least two hundred applicants, the premiums on which shall amount to not less than one hundred thousand dollars, of which twenty thousand dollars at least shall have been paid in cash, and notes of solvent parties, founded on actual and *bona fide* applications for insurance, shall have been received for the remainder. No one of the notes received, as aforesaid, shall amount to more than five hundred dollars; and no two shall be given for the same risk, or be made by the same person or firm, except where the whole amount of such notes shall not exceed five hundred dollars; nor shall any such note be represented as capital stock unless a policy be issued upon the same

within thirty days after the organization of the company, upon a risk which shall not be for a shorter period than twelve months. Each of said notes shall be payable in part or in whole at any time when the directors shall deem the same requisite for the payment of losses by fire or inland navigation, and such incidental expenses as may be necessary for transacting the business of said company. And no note shall be accepted as part of such capital stock unless the same shall be accompanied by a certificate of a justice of the peace, or supervisor of the town or city where the person making such note shall reside, that the person making the same is, in his opinion, pecuniarily good and responsible for the same; and no such note shall be surrendered during the life of the policy for which it was given. No joint stock fire insurance company organized under this act, or transacting business in this State, shall expose itself to any loss on any fire or inland navigation risk or hazard to an amount exceeding ten per cent. of its paid-up capital. (*Ibid*, § 6.)

9. It shall and may be lawful for the individuals associated for the purpose of organizing any company under this act, after having published the notice and filed the declaration and charter, as required by the third section of this act, and also on filing in the office of the Auditor of Public Accounts proof of such publication by the affidavit of the publisher of such newspaper, his foreman or clerk, to open books for subscription to the capital stock of the company so intended to be organized, and to keep the same open until the full amount specified in the charter is subscribed; or in case the business of such company is proposed to be conducted on the plan of mutual insurance, then to open books to receive propositions, and to enter into agreements in the manner and to the extent specified in the sixth section of this act. (*Ibid*, p. 592, § 7.)

10. It shall be lawful for any insurance company organized under this act, or any such company incorporated under any law of this State, to invest its capital and the fund accumulated in the course of its business, or any part thereof, in bonds and mortgages on improved unincumbered real estate within the State of Illinois, worth fifty per cent. more than the sum loaned thereon (exclusive of buildings, unless such buildings are insured and the policy transferred to said company), and also in the stocks of this State, or stocks or treasury notes of the United States, and also the bank stock of national banks, and also in the stocks and bonds of any county or incorporated city in this State, authorized to be issued by the legislature, and to lend the same, or any part thereof, on the security of such stocks or bonds or treasury notes, or upon bonds and mortgages as aforesaid, and to change and reinvest the same as occasion may from time to time require; but any surplus money over and above the capital stock of such fire and inland navigation insurance companies, or any such insurance companies incorporated under any law of this State, may be invested in or loaned upon the pledge of the public stocks or bonds of the United States, or any one of the States, or the stocks, bonds, or other evidences of indebtedness of any solvent, dividend-paying institution, incorporated under the laws of this State, or of the United States, except their own stock; *Provided, always*, That the current market value of such stocks, bonds, and other evidences of indebtedness shall be at all times, during the continuance of such loans, at least ten per cent. more than the sum loaned thereon. (*Ibid*, § 8.)

**11.** No company organized by or under this act shall purchase, hold, or convey real estate, excepting for the purposes and in the manner herein set forth, to wit: 1st. Such as shall be requisite for its convenient accommodation in the transaction of its business; or, 2d, such as shall have been mortgaged to it in good faith by way of security for loans previously contracted, or for money due; or, 3d, such as shall have been conveyed to it in satisfaction of debts previously contracted in their legitimate business, or for money due; or, 4th, such as shall have been purchased at sales upon judgments, decrees or mortgages obtained or made for such debts. And it shall not be lawful for any such company to purchase, hold or convey real estate in any other case, or for any other purpose; and all such real estate as may be acquired as aforesaid, and which shall not be necessary for the accommodation of such company in the transaction of its business, shall be sold and disposed of within five years after such company shall have acquired title thereto, unless the company shall procure a certificate from the Auditor of Public Accounts that the interests of the company will suffer materially by a forced sale thereof; in which event the sale may be postponed for such a period as the said Auditor shall direct in said certificate; and the said Auditor may also give such certificate and extend the time for holding real estate, in the like circumstances, on the application of any insurance company heretofore incorporated. (*Ibid*, p. 594, § 9.)

**12.** The charter and proof of publication herein required to be filed by every such company, shall be examined by the Attorney-General, and if found conformable to this act, and not inconsistent with the constitution and laws of this State, shall be certified by him to the Auditor of Public Accounts, who shall thereupon cause an examination to be made, either by himself or by three disinterested persons, especially appointed by him for that purpose, who shall certify, under oath, that the capital herein required of the company named in the charter, according to the nature of the business proposed to be transacted by such company, has been paid in, and is possessed by it in money, or in such stocks and bonds and mortgages as are required by the eighth section of this act, or if a mutual company, that it has received and is in actual possession of the capital, premiums, or *bona fide* engagements of insurance or other securities, as the case may be, to the full extent and of the value required by the sixth section of this act; and the name and residence of the maker of each premium note forming part of the capital, and the amount of such note shall be returned to the said Auditor; and the corporators and officers of such company shall be required to certify under oath, that the capital exhibited to those persons is *bona fide* property of the company. Such certificate shall be filed in the office of the said Auditor, who shall thereupon deliver to such company a certified copy of the charter and of said certificates, which, on being filed in the office of the clerk of the county where the company is to be located, shall be their authority to commence business and issue policies; and such certified copy of the charter and of said certificates may be used in evidence for or against said company, with the same effect with the originals, and shall be conclusive evidence of the fact of the organization of such company. (*Ibid*, § 10.)

**13.** The corporators, or the trustees or directors, as the case may be, of any company organized under this act, shall have power to make such by-laws, not inconsistent with the constitution or laws



of this State, as may be deemed necessary for the government of its officers and the conduct of its affairs, and the same, when necessary, to alter and amend. And they and their successors may have a common seal, and may change and alter the same at their pleasure. (*Ibid*, § 11.)

**14.** It shall not be lawful for the directors, trustees or managers of any such insurance company to make any dividend, except from the surplus profits arising from their business; and in estimating such profits, there shall be reserved therefrom a sum equal to the whole amount of unearned premiums on unexpired risks and policies; and also, there shall be reserved all sums due the corporation on bonds and mortgages, stocks and book accounts, of which no part of the principal or the interest thereon has been paid during the last year, and for which foreclosure or suit has not been commenced for collection, or which, after judgment obtained thereon, shall remain more than two years unsatisfied, and on which interest shall not have been paid; and also, there shall be reserved all interest due or accrued and remaining unpaid; *Provided, always*, That any company may declare dividends not exceeding ten per cent. on its capital stock in any one year, that shall have accumulated and be in possession of a fund, in addition to the amount of its capital stock—and of such dividend, and all actual outstanding liabilities, equal to one-half of the amount of all premiums on risks not terminated at the time of making such dividend. Any dividend made contrary to these provisions shall subject the company making the same to a forfeiture of its charter, and each stockholder receiving it, to a liability to the creditors of such company to the extent of the dividend received, in addition to the other penalties and punishments in such case made and provided. This section shall not apply to the declaration of scrip dividends by participating companies; but no such scrip dividends shall be paid except from surplus profits, after reserving all sums as above provided, including the whole amount of premiums on unexpired risks. The word “year,” wherever used in this section, shall be construed to mean the calendar year. (*Ibid*, § 12.)

**15.** All notes deposited with any mutual insurance company at the time of its organization, as provided in section six (6), shall remain as security for all losses and claims, until the accumulation of the profits, invested as required by the eighth (8) section of this act, shall equal the amount of cash capital required to be possessed by stock companies organized under this act, the liability of each note decreasing proportionately as the profits are accumulated; but any note which may have been deposited with any such mutual insurance company subsequent to its organization, in addition to the cash premium or any insurance effected with such company, may, at the expiration of the time of such insurance, be relinquished and given up to the maker thereof, or his representative, upon his paying his proportion of all losses and expenses which may have accrued thereon during such term. The directors or trustees of any such company shall have the right to determine the amount of the note to be given, in addition to the cash premium, by any person insured in such company: but in no case shall the note be more than five times the whole amount of the cash premium. And every person effecting insurance in any mutual company organized under this act, and also their heirs, executors, administrators and assigns, continuing to be so insured shall thereby become members of said corporation dur-

ing the period of insurance, and shall be bound to pay for losses and such necessary expenses as aforesaid, accruing in, and to said company, in proportion to the amount of his deposit note or notes. The directors shall, as often as they deem necessary, after receiving notice of any loss or damage by fire, sustained by any member, and ascertaining the same, or after the rendition of any judgment against such company for loss or damage, settle and determine the sums to be paid by the several members thereof as their respective portion of such loss, and publish the same in such manner as they shall see fit, or as the by-laws shall have prescribed, and the sum to be paid by each member shall always be in proportion to the original amount of his deposit note or notes, and shall be paid to the officers of the company within thirty (30) days next after the publication of said notice. And if any member shall, for the space of thirty (30) days after the publication of said notice and service of such notice upon such member by mail, directed to him at his post office, addressed as written in or upon his application for insurance, neglect or refuse to pay the sum assessed upon him as his proportion of any loss as aforesaid, in such case the directors may sue for and recover the whole amount of his deposit note or notes, with cost of suit, but execution shall only issue for assessments and costs as they accrue. If the whole amount of the deposit notes shall be insufficient to pay the loss occasioned by any fire or fires, in such case the sufferers insured by the said company shall receive towards making good their respective losses a proportional share of the whole amount of said notes, according to the sums by them respectively insured, but no member shall ever be required to pay for any loss, occasioned by fire or inland navigation more than the whole amount of his deposit note. (*Ibid*, p. 594, § 13.)

**16.** Every fire and inland navigation insurance company hereafter organized, shall, if it be a mutual company, embody the word "mutual" in its title, which shall appear on the first page of every policy and renewal receipt; and every company doing business as a joint-stock company, shall, upon the face of its policy, in some suitable manner express that such policy is a stock policy. (*Ibid*, p. 595, § 14.)

**17.** Suits of law may be maintained by any corporation formed under this act against any of its members or stockholders, for any cause relating to the business of such corporation; also suits at law may be prosecuted and maintained by any member or stockholder against such corporation, for any losses which may have accrued, if payment is withheld after such losses may have become due. (*Ibid*, § 15.)

**18.** The trustees and corporators of any company organized under this (act) shall be severally liable for all debts or responsibilities of such company to the amount by him or them subscribed, until the whole amount of the capital of such company shall have been paid in and a certificate thereof recorded, as hereinbefore provided. Notes taken in advance of premiums, under this act, are not to be considered debts of the company in determining whether a company is insolvent, but are to be regarded as assets of the company. (*Ibid*, § 16.)

**19.** Any existing joint-stock fire insurance company heretofore incorporated under the laws of this State, and any company organized under this act, having a capital of at least one hundred thousand dollars, may, without increasing its capital, at any time

within two years previous to the termination of its charter, after giving notice at least once a week for four weeks successively, in a newspaper published in the county where such company is located, of such intention, and with a declaration, under its corporate seal, signed by the president and two-thirds of its directors, of their desire of such extension, extend the term of its original charter to the time specified in the twenty-sixth section of this act, by altering and amending the same so as to accord with the provisions of this act, and filing a copy of such amended charter, with the declaration aforesaid, in office of the Auditor of Public Accounts, whereupon the same proceedings shall be had as required in the tenth section of this act. And any mutual insurance company heretofore incorporated or organized under any of the laws of this State, having surplus assets, aside from premium and stock notes, sufficient to reinsure all its outstanding risks, after having given notice once a week for four weeks, of their intention, and of the meeting hereinafter provided for, in a newspaper published in the county where such company is located, may, with the consent of two-thirds of the corporators or members present at any regular annual meeting, or at any special meeting duly called for the purpose, or with the consent, in writing, of two-thirds of the corporators or members of such company, and the consent, also, of three-fourths of the trustees or directors, unless otherwise provided in the charter, become a joint-stock company, by conforming its charter to and otherwise proceeding in accordance with this act; and every member of such company, on the day of said annual or special meeting, or the date of said written consent, shall be entitled to priority in subscribing to the capital stock of said company, for one month after the opening of the books of subscription to such capital stock, in proportion to the amount of cash premiums paid in by such members on unexpired risks in force on the day of said annual or special meeting, or the date of said written consent; and every company so extended or changed shall come under the provisions of this act, in the same manner as if it had been incorporated originally under this act. (*Ibid*, § 17.)

**20.** Any existing fire insurance company, and any company formed under this law, may at any time increase the amount of its capital stock, after notice given once a week for four weeks in any newspaper published in the county where such company is located, of such intentions, with the written consent of three-fourths, in amount, of its stockholders, unless otherwise provided in its charter, or if a mutual company, with the unanimous consent of its trustees, unless otherwise provided in its charter, by altering or amending their charter in this respect, and filing a copy of their charter so amended, together with a declaration under its corporate seal, signed by its president and directors, of their desire (so to do), with such written consent of three-fourths, in amount, of its stockholders, or the unanimous consent of the trustees as aforesaid, to such increase, in the office of the Auditor of Public Accounts, and upon the same proceedings had as are required by the tenth section of this act. (*Ibid*, p. 596, § 18.)

**21.** All insurance companies heretofore organized in the State of Illinois, and now doing business in this State, are hereby brought under all the provisions of this act except that their capitals may continue of the amounts and character named in and authorized by their respective charters, during the existing term of such charters,

and the investments of the capital and assets of such companies may remain the same as prescribed by their charters, anything in this act to the contrary notwithstanding, and such companies shall also be entitled to all the privileges and powers granted by said charters. (*Ibid*, § 19.)

**22.** All companies incorporated or extended under this act shall be deemed and taken to be bodies corporate and politic in fact and in name, and shall be subject to all the provisions of law in relation to corporations, so far as the same are practicable. (*Ibid*, § 20.)

**23.** It shall be the duty of the president or vice-president and secretary of each company organized under this act, or incorporated under any law of this State, annually, on the first day of January of each year, or within one month thereafter, to prepare under their own oath, and deposit in the office of the Auditor of Public Accounts a statement of the condition of such company on the thirty-first day of December then next preceding, exhibiting the following facts and items in the following form, namely :

*First.*—The amount of the capital stock of the company actually paid in.

*Second.*—The property or assets held by the company, specifying :

1. The value, or as nearly as may be, of the real estate held by such company.

2. The amount of cash on hand and deposited in banks to the credit of the company, specifying in what banks the same are deposited.

3. The amount of cash in the hands of agents and in course of transmission.

4. The amount of loans secured by mortgages and bonds, constituting the first lien on real estate on which there shall be less than one year's interest due or owing.

5. The amount of loans on which interest shall not have been paid within one year previous to such statement.

6. The amount due the company on which judgments have been obtained.

7. The amount of stocks of this State, of the United States, of any incorporated city of this State, and of any other stocks owned by the company, specifying the amount, number of shares and par and market value of each kind of stock.

8. The amount of stocks held thereby as collateral security for loans, with the amount loaned on each kind of stock, its par value and the market value.

9. The amount of assessments on stock or premium notes (paid and unpaid), specifying each.

10. The amount of interest actually due and unpaid.

11. The amount of premium notes on hand on which policies are issued.

12. The amount of installment notes on hand on which policies are issued.

*Third.*—The liabilities of such company, specifying :

1. The amount of losses due and yet unpaid.

2. The amount of claims for losses resisted by the company.

3. The amount of losses incurred during the year, including those claimed and not yet due, and including the probable amount of those reported to the company, upon which no action has been taken.



4. The amount of dividends declared and due, and remaining unpaid.

5. The amount of dividends, if any, declared but not yet due.

6. The amount of money borrowed, and security, if any, given for the payment thereof.

7. All other existing claims against the company, and also the gross amount of outstanding risks, and the gross amount of premiums thereon unearned.

*Fourth.*—The income of the company during the preceding year, specifying:

1. The amount of cash premiums received.

2. The amount of notes received for premiums.

3. The amount of interest money received.

4. The amount of income received from other sources.

*Fifth.*—The expenditures during the preceding year, specifying:

1. The amount of losses paid during the year, stating how much of the same accrued prior, and how much subsequent, to the date of the preceding statement, and the amount at which such losses were estimated in such preceding statement.

2. The amount of dividends paid during the year.

3. The amount of expenses paid during the year, including commissions and fees to agents and officers of the company.

4. The amount paid in taxes, specifying the amount paid in this State.

5. The amount of all other payments and expenditures.

It shall be the duty of the Auditor to establish a classification of risks into any number of classes, not less than four, according to the degree of hazard of such risks; and the Auditor shall require said companies, as a part of the aforementioned statement, to give the number of policies in force covering property embraced in each of said classes, and the aggregate amount of risk upon property in each class. The Auditor of Public Accounts is hereby authorized and empowered to address any inquiries to any insurance company, or the secretary thereof, in relation to its doings or condition, or any other matter connected with its transactions; and it shall be the duty of any company so addressed to promptly reply, in writing, to any such inquiries. The statement of any company, the capital of which is composed in whole or in part of notes, shall, in addition to the foregoing, exhibit the amount of notes originally forming the capital, and also what proportion of said notes is still held by such company and considered capital. The statements herein provided for shall be in lieu of any and all statements now required by any existing law, and the several provisions of the acts approved February 14, 1855, and January 22, 1857, are hereby repealed. Every insurance company organized under any law of this State, failing to make and deposit such statements or to reply to any inquiry of the said Auditor, shall be subject to the penalty of five hundred dollars, and an additional five hundred dollars for every month that such company shall continue thereafter to transact any business of insurance. It shall be the duty of the Auditor of Public Accounts to cause to be prepared and furnished to each of the companies, and to the attorneys of companies incorporated by other States and foreign governments, printed forms of the statements required by this act; and he may, from time to time, make such changes in the form of such statements as shall seem to him

best adapted to elicit from the companies a true exhibit of their condition in respect to the several points hereinbefore mentioned. It shall be the duty of the Auditor of Public Accounts to cause the information contained in the statements required by this section to be arranged in a tabular form and printed in his biennial report. (*Ibid.*, § 21.)

**24.** It shall not be lawful for any insurance company, association, or partnership, incorporated by or organized under the laws of any other State of the United States, or any foreign government, for any of the purposes specified in this act, directly or indirectly, to take risks or transact any business of insurance in this State, unless possessed of the amount of actual capital required of similar companies formed under the provisions of this act; and any such company desiring to transact any such business as aforesaid, by any agent or agents, in this State, shall first appoint an attorney in this State, on whom process of law can be served, and file in the office of the Auditor of Public Accounts a written instrument, duly signed and sealed, certifying such appointment, which shall continue until another attorney be substituted; and any process issued by any court of record in this State, and served upon such attorney by the proper officer of the county in which such attorney may reside, or may be found, shall be deemed a sufficient service of process upon such company; but service of process upon such company may also be made in any other manner provided by law. In case any insurance company, not incorporated in this State, shall cease to transact business in this State according to the laws thereof, the agents last designated, or acting as such for such corporation, shall be deemed to continue agents for such corporation for the purpose of serving process for commencing action upon any policy or liability issued or contracted while such corporation transacted business in this State, and service of such process, for the causes aforesaid, upon any such agent, shall be deemed a valid personal service upon such corporation. And every such company, association, or partnership, shall also file a certified copy of their charter, or deed of settlement, together with a statement, under the oath of the president or vice-president, or other chief officer, and secretary of the company for which he or they may act, stating the name of the company and place where located, the amount of its capital, with a detailed statement of its assets, showing the amount of cash on hand, in bank, or in the hands of agents; the amount of real estate, and how much the same is encumbered by mortgage; the number of shares of stock of every kind owned by the company; the par and market value of the same; amount loaned on bond and mortgage; the amount loaned on other security, stating the kind and amount loaned on each, and the estimated value of the whole amount of such securities; any other assets or property of the company; also stating the indebtedness of the company; the amount of losses adjusted and unpaid; the amount incurred and in process of adjustment; the amount resisted by the company as illegal and fraudulent, and all other claims existing against the company; also a copy of the last annual report, if any, made under any law of the State by which such company was incorporated; and no agent shall be allowed to transact business for any such company whose capital is impaired to the extent of twenty per cent. thereof, while such deficiency shall continue. And any company incorporated by or organized under any foreign government shall, in addition to the foregoing, deposit with

the Auditor of Public Accounts, for the benefit and security of policy-holders residing in the United States, a sum not less than two hundred thousand dollars, in stocks of the United States or of the State of Illinois, in all cases to be equal to a stock producing six per cent. per annum—said stocks not to be received by said Auditor at a rate above their par value, or about their current market value—or in bonds and mortgages on improved unincumbered real estate in the State of Illinois, worth fifty per cent. more than the amount loaned thereon. The stocks and securities so deposited may be exchanged, from time to time, for other securities, receivable as aforesaid. And so long as the company so depositing shall continue solvent, and comply with the laws of this State, such company or association may be permitted by the said Auditor to collect the interest or dividends on said deposits; and where a deposit is made of bonds and mortgages, accompanied by full abstracts of title and searches, the fees for an examination of title by counsel, to be paid by the party making the deposit, shall not exceed twenty dollars for each mortgage, and the fee for an appraisal of property shall be five dollars to each appraiser, not exceeding two, besides expenses for each mortgage. Nor shall it be lawful for any agent or agents to act for any company or companies referred to in this section, directly or indirectly, in taking risks or transacting the business of fire and inland navigation insurance in this State, without procuring from the Auditor of Public Accounts a certificate of authority, stating that such company has complied with all the requisitions of this act which apply to such companies, and the name of the attorney appointed to act for the company. The statement and evidences of investments required by this section shall be renewed from year to year, in such manner and form as may be required by said Auditor, with an additional statement of the amount of premiums received and losses incurred in this State during the preceding year, so long as such agency continues; and the said Auditor, on being satisfied that the capital, securities and investments remain secure, as hereinbefore provided, shall furnish a renewal of the certificate, as aforesaid. Any violation of any of the provisions of this act shall subject the party violating the same to a penalty of five hundred dollars for each violation, and of the additional sum of one hundred dollars for each month during which any such agent shall neglect to file such affidavits and statements as are herein required. Every agent of any insurance company shall, in all advertisements of such agency, publish the location of the company, giving the name of the city, town, or village in which the company is located, and the State or government under the laws of which it is organized. The term "agent" or "agents," used in this section, shall include an acknowledged agent, surveyor, broker, or any other person or persons who shall, in any manner, aid in transacting the insurance business of any insurance company not incorporated by the laws of this State. The provisions of this section shall apply to all foreign companies, partnership associations and individuals, whether incorporated or not. All insurance companies, associations, or partnerships incorporated by or organized under the laws of any other State of the United States, or any foreign government, transacting the business of fire or marine insurance, or any other kind of insurance, in this State, shall make annual statements of their condition and affairs to the Auditor's office, in the same manner and in the same form as similar companies organized under the laws of this State.

In case of neglect or refusal to make such annual statement, as aforesaid, all persons acting in this State as agents or otherwise, in transacting the business of insurance for said companies, corporations, associations, partnerships, or individuals, shall be subject to the same penalties provided by law in case of the failure of any insurance company organized under the laws of this State to make an annual statement, as provided in this act. Foreign insurance companies shall be required to make and file their annual statements and evidences on the first day of January in each year, or within thirty days thereafter, made out for the year ending on the preceding 30th of September. The supplementary annual statements of their business and affairs in the United States, duly verified by the resident manager of such company, shall be filed in the month of January in each year, made out for the year ending the 31st day of December immediately preceding. (*Ibid*, p. 598, § 22.)

**25.** It shall be the duty of the Auditor of Public Accounts, whenever he shall deem it expedient so to do, in person, or by one or more persons to be appointed by him for that purpose, not officers or agents of, or in any manner interested in any insurance company doing business in this State, except as policy-holders, to examine into the affairs of any insurance company incorporated in this State, or doing business by its agents in this State; and it shall be the duty of the officers or agents of any such company, doing business in this State, to cause their books to be opened for the inspection of the Auditor or person or persons so appointed, and otherwise to facilitate such examinations, so far as it may be in their power to do, and to pay all reasonable expenses incurred therein; and for that purpose, the said Auditor or person or persons so appointed by him shall have power to examine, under oath, the officers and agents of any company, relative to the business of said company; and whenever the said Auditor shall deem it for the best interests of the public so to do, he shall publish the result of said investigation in one or more papers in this State. And whenever it shall appear to the said Auditor, from such examination, that the assets of any company incorporated in this State are insufficient to justify the continuance in business of any such company, he may direct the officers thereof to require the stockholders to pay in the amount of such deficiency, within such period as he may designate in such requisition; or he shall communicate the fact to the Attorney-General, whose duty it shall then become to apply to the circuit court of the county in which the principal office of said company shall be located, for an order requiring them to show cause why the business of such company should not be closed; and the court shall thereupon proceed to hear the allegations and proofs of the respective parties; and in case it shall appear to the satisfaction of said court that the assets and funds of said company are not sufficient, as aforesaid, or that the interests of the public so require, the said court shall decree a dissolution of said company, and a distribution of its effects. The said circuit court shall have power to refer the application of the Attorney-General to a Master in Chancery, to inquire into and report upon the facts stated therein. Any company receiving the aforesaid requisition from the said Auditor, shall forthwith call upon its stockholders for such amounts as will make its capital equal to the amount fixed by the charter of said company; and in case any stockholder of such company shall refuse or neglect to pay the amount so called for, after notice personally given,



or by advertisement, in such time and manner as the said Auditor shall approve, it shall be lawful for the said company to require the return of the original certificate of stock held by such stockholder, and, in lieu thereof, to issue new certificates for such number of shares as the said stockholder may be entitled to, in the proportion that the ascertained value of the funds of the said company may be found to bear to the original capital of the said company—the value of such shares, for which new certificates shall be issued, to be ascertained under the direction of the said Auditor, and the company paying for the fractional parts of shares; and it shall be lawful for the directors of such company to create new stock, and dispose of the same, and to issue new certificates therefor, to an amount sufficient to make up the original capital of the company. And it is hereby declared that, in the event of any additional losses accruing upon new risks taken after the expiration of the period limited by the said Auditor, in the aforesaid requisition for the filling up of the deficiency in the capital of such company, and before said deficiency shall have been made up, the directors shall be individually liable to the extent thereof. And if, upon such examination, it shall appear to the said Auditor that the assets of any company chartered on the plan of mutual insurance, under this act, are insufficient to justify the continuance of such company in business, it shall be his duty to proceed in relation to such company in the same manner as is herein required in regard to joint stock companies; and the trustees or directors of such company are hereby made personally liable for any losses which may be sustained upon risks taken after the expiration of the period limited by said Auditor for filling up the deficiency in the capital, and before such deficiency shall have been made up. Any transfer of the stock of any company organized under this act, made during the pending of any such investigation, shall not release the party making the transfer from his liability for losses which may have accrued previous to the transfer. And whenever it shall appear to the said Auditor, from the report of the person or persons appointed by him, that the affairs of any company not incorporated by the laws of this State are in an unsound condition, he shall revoke the certificates granted in behalf of such company, and shall cause a notification thereof to be published in a newspaper of general circulation, published in the city of Springfield, and mail a copy thereof to each agent of the company; and the agent or agents of such company, after such notice, shall be required to discontinue the issuing of any new policy, and the renewal of any previously issued. (*Ibid.* p. 600, § 23.)

**26.** Every penalty provided for by this act shall be sued for and recovered in the name of the people, by the State's attorney of the county in which the company or the agent or agents so violating shall be situated; and one half of said penalty, when recovered, shall be paid into the treasury of said county, and the other half to the informer of such violation; and in case of the non-payment of such penalty, the party so offending shall be liable to imprisonment for a period not exceeding six months, in the discretion of any court having cognizance thereof. Such penalties may also be sued for and recovered, in the name of the people, by the Attorney-General, and when sued for and collected by him, shall be paid into the State treasury. (*Ibid.* p. 601, § 24.)

**27.** All companies incorporated or extended under this act, may provide in their charters for not more than thirty years' dura-

tion, but the legislature may at any time alter or amend this act, and provide for the closing up of the business and affairs of any company formed under it. Nothing herein contained shall be construed to prevent subsequent extension of the charters of companies organized or extended under this act. (*Ibid*, § 25.)

28. Companies, other than those organized under the laws of this State, which may have received certificates of authority for the year 1869, prior to the passage of this act, shall be permitted to continue to transact the business of insurance without further statement until the 31st day of January, 1870. Any fire, or fire and marine, insurance company chartered by this State, may have a lien, by passing a by-law to that effect, upon the stock or certificate of profits owned by any member, for any debt hereafter to become due the said company for premiums, by stating that the said stock is subject to any such lien upon the certificates of stocks or profits. And such lien may be waived, in writing, by the consent of the president of said company, upon the transfer of any such stock. Whenever it shall appear to the Auditor of Public Accounts, from an examination made by him in the manner prescribed by law, that the capital stock of any joint stock company, organized pursuant to law, is impaired to an amount exceeding twenty-five per cent. of such capital, and he shall be of the opinion that the interests of the public will not be prejudiced by permitting such company to continue business with a reduced capital, it shall be lawful for such company, with the permission of the said Auditor, to reduce its capital stock and the par value of the shares thereof, to such amount as the said Auditor may, under his hand and official seal, certify to be proper, and as shall, in his opinion, be justified by the assets and property of such company; *Provided*, That no part of such assets and property shall be distributed to the stockholders; *And provided further*, That the capital stock of any such company shall not be reduced to an amount less than the sum now required by law for the organization of a new company under the general insurance laws, for the transaction of business at the place where the company is located, and of the kind which such company is authorized to transact. No reduction of the capital of any such company shall be made, except upon a resolution of its board of directors, approved by at least two-thirds of the directors, and certified under its corporate seal, signed by the president and at least two-thirds of the directors, and proved or acknowledged in the manner required by law for the proof or acknowledgment of conveyances; which certificate shall be filed in the office of said Auditor before any action shall be had by him thereon. The Auditor of Public Accounts, in case he shall permit any such company to reduce its capital in the manner provided in this act, shall execute the certificate required by this act in duplicate, and deliver one of such certificates to the officers of such company, who shall forthwith file the same with the clerk of the county in which such company is located, and the other such certificate shall be filed in the office of said Auditor. Such company, upon filing the certificate with the county clerk, as required by this act, shall, with such reduced capital, possess the same rights, and be subject to the same liabilities, that it possessed or was subject to at the time of the reduction of its capital. And the charter of such company shall be deemed to be amended in respect to the amount of capital and the par value of the shares, so as to conform to such reduction. It

shall be lawful for the said company to require the return of the original certificate of stock held by each stockholder, and in lieu thereof to issue new certificates for such number of shares as each stockholder may be entitled to, in the proportion that the reduced capital may be found to bear to the original capital of the company. It shall be lawful for any such company, after its capital shall be so reduced as aforesaid, to increase its capital stock in the mode prescribed by this law. It shall be the duty of all receivers and trustees of insurance companies, during the month of January in each year, and at any other time when required by the Auditor of Public Accounts, to make and file annual and other statements of their assets and liabilities, and of their income and expenditures, in the same manner and form, and under the same penalties, as the officers of such companies are now required by law to make annual and other statements to the Auditor's office. And the said Auditor shall also cause its annual statements required to be filed by this act to be published in two daily newspapers of general circulation, the one printed in the city of Chicago, and the other printed in the city of Springfield, not less than fifteen days. (*Ibid*, § 26.)

**29.** There shall be paid by every company, association, person or persons, or agent, to whom this act shall apply, the following fees: For filing the declaration or the certified copy of a charter herein required, the sum of thirty dollars; for filing the annual statement required, ten dollars; for each certificate of authority to agents of companies or associations not incorporated under the laws of this State, two dollars; for each certificate of authority to agents of companies incorporated under the laws of this State, fifty cents; for every copy of paper filed in his office the sum of twenty cents per folio; and for affixing the seal of said office to such copy and certifying the same, one dollar. And in case two or more companies shall combine and effect insurance under a joint policy, each and every company shall pay the fees provided herein, the same as if each company wrote separate and distinct policies; *Provided*, That the net amount of all fees over and above the cost of performing the clerical labor connected therewith shall not exceed, under this act, the sum of five thousand dollars, and that any amount above that sum shall be paid over to the State Treasurer; *And provided further*, That the Auditor shall render account, in his biennial report, of fees received by him under the provisions of this act. (*Ibid*, p. 602, § 27.)

**30.** Agents appointed by any company doing business in this State to solicit for applications for insurance, to collect the premiums on the same, and to transact the other duties of agents in such cases, shall be held personally responsible to such company for any moneys received by them for such company; and in case any such agent shall embezzle or fraudulently convert to his own use, or shall take or secrete with intent to embezzle to his own use, without consent of such company, any money belonging to such company, which shall have come into his possession, or shall be under his care by virtue of his agency, he shall be deemed, by so doing, to have committed the crime of larceny, and on conviction, shall be subject to the fines and penalties provided by the statutes in such cases. (*Ibid*, p. 603, § 28.)

**31.** Whenever the existing or future laws of any State of the United States, or any other kingdom or country, shall require of insurance companies incorporated by or organized under the laws of

this State, and having agencies in such other State, kingdom or country, any deposit or securities in such State, kingdom, or country, for the protection of policy-holders, or otherwise, of any payment for taxes, fines, penalties certificates of authority, license fees, or otherwise, greater than the amount required for such purposes from similar companies of other States by the then existing laws of this State, then, and in every such case, all companies of such States establishing, or having heretofore established an agency or agencies in the State, shall be and are hereby required to make the same deposit for a like purpose with the Auditor of this State, and to pay to the Auditor for taxes, fines, penalties, certificates of authority, license fees, and otherwise, an amount equal to the amount of such charges and payments imposed by the laws of such State upon the companies of this State and agents thereof; *Provided*, That the payment required of such foreign companies shall in no case be less than required by this act. (*Ibid*, § 29.)

**32.** Every agent of any insurance company incorporated by the authority of any other State or government shall return to the proper officer of the county, town, or municipality in which the agency is established, in the month of May, annually, the amount of the net receipts of such agency, which shall be entered on the tax lists of the county, town, or municipality, and subject to the same rate of taxation for all purposes—State, county, town, municipal—that other personal property is subject to at the place where located; said tax to be in lieu of all town and municipal licenses, and all laws and part of laws inconsistent herewith are hereby repealed; *Provided*, That the provisions of this section shall not be construed to prohibit cities having an organized fire department from levying a tax or license fee not exceeding two per cent., in accordance with the provisions of their respective charters, on said gross receipts, to be applied exclusively to the support of the fire department of such city. (*Ibid*, § 30.)

**33.** Nothing in this act shall be so construed as to interfere with the workings or organization of any insurance company organized under an act of the General Assembly, entitled “An act to authorize the formation of township insurance companies,” approved February 20, 1867, or to any township insurance company chartered by act of this General Assembly. (*Ibid*, § 31.)

**34.** This act shall take effect from and after its passage; *Provided*, That companies other than those organized under the laws of this State which may have received licenses for the year A. D. 1869, prior to the passage of this act, shall not be obliged to renew application during the said year. But such company shall be subject to examination at the discretion of the Auditor of Public Accounts, as hereinbefore provided; *Also provided*, That the examination of companies already organized under the laws of this State, shall for the year 1869, be made in the month of July next, or as soon thereafter as possible. (*Ibid*, § 32.)

#### DEPOSITS OF FOREIGN INSURANCE COMPANIES.

**35.** When any fire, or fire and marine insurance company, organized under the laws of any foreign government, shall file with the Auditor of Public Accounts a certificate of the Superintendent of Insurance Department of any other State, stating that a deposit of



two hundred thousand dollars, or the equivalent of that amount, for the protection of the policy-holders in the United States, has been made by said company in that State in accordance with the existing laws thereof, said company shall not be required to make such deposit in this State so long as said deposit shall remain intact with the Superintendent of the Insurance Department or Treasurer of said State, a certificate of which, from the Superintendent of the Insurance Department of that State, shall be annually filed with the Auditor of Public Accounts of this State. (*Ibid*, p. 604, § 33.)

**36.** All fire, or fire and marine insurance companies organized under the laws of any foreign country, establishing, or having heretofore established an agency or agencies in this State shall be and are hereby allowed to make the deposit required by the laws of this State, in such bonds, stocks, or other securities of such foreign country; *Provided*, The same shall not be received for more than their par value, nor shall they in any case be valued at more than their current market value. (*Ibid*, § 34.)

**37.** The recent conflagration in Chicago having deprived the people of the State of Illinois of the means of ample insurance on their buildings and goods, an emergency exists requiring this act to be of immediate force and effect; therefore this act shall take effect and be in force from and after its passage. (*Ibid*, § 35.)

### LIFE INSURANCE.

**38.** Before any life insurance company goes into operation under the laws of this State, a guarantee capital of at least one hundred thousand dollars shall be paid in money, and invested in the stocks of the United States or of this State, or of any city or town in this State, estimated at their market value, or in such other stocks and securities as may be approved by the Auditor of Public Accounts, or in mortgages being first liens on real estate in this State—the said real estate being worth at least twice the amount of the money loaned thereon, with abstract showing a good and sufficient title, and the certificate of two reputable landholders, under oath, certifying to the value of said property. (*Ibid*, § 36.)

**39.** No policy shall be issued until a certificate from the Auditor has been obtained authorizing such company to issue policies. The said Auditor shall examine the capital, and a majority of the directors shall make oath that the money has been paid in by the stockholders towards payment of their respective shares, and not for any other purpose, and that it is intended that the same shall remain as the capital of the company, to be invested as required by the laws of this State. Every insurance company incorporated in this State shall pay to said Auditor, for the examination required by this section, the sum of thirty dollars. (*Ibid*, § 37.)

**40.** It shall not be lawful for any person to act within this State, as agent or otherwise, in receiving or procuring applications for life insurance, or in any manner to aid in transacting the business of life insurance, referred to in the first section of this act (38), for any company or association incorporated by or organized under the laws of any other State government, unless such company has conformed in such State, or in this State, to the same requirements in regard to capital that are imposed, by section one of this act, upon companies in this State, or, in lieu thereof, has actual assets

to the amount of at least one hundred thousand dollars invested in the same manner as is prescribed in regard to capital in section one of this act. (*Ibid*, p. 605, § 38.)

**41.** The subscribers or holders of guarantee stock in a life insurance company organized on the mutual or stock and mutual plan, shall choose the first board of directors; and at all subsequent elections they shall choose one-half of the directors, and the holders of mutual policies the other half, until the redemption of the guarantee stock, when the holders of mutual policies shall elect all the directors. (*Ibid*, § 39.)

**42.** Every life insurance company incorporated in this State, or doing business in this State, shall, on or before the first day of March, in each year, transmit to the auditor, and file in his office, a statement of its business standing and affairs, in the form prescribed or authorized by law, and adapted to the business done by such company, signed and sworn to by the president or vice-president and secretary, and made out for the year ending on the preceding thirty-first day of December. (*Ibid*, § 40.)

**43.** The form for life insurance companies shall be as follows: 1st. Name of the company. 2d. When chartered. 3d. For what period. 4th. Where located. 5th. State in full the assets of the company. 6th. Number of shares owned in any bank; state par value, cost, and the market value per share. 7th. Number of shares owned in any railroad; stating the corporate name of each, and the amount invested in each, at cost, on its books; state the par value and the market value of each share. 8th. Amount owned in railroad bonds; state par value, cost, and market value, per share. 8th. Amount invested in real estate, at cost, on the books of the company. 10th. Amount loaned on mortgages of real estate, and estimated value of said real estate. 11th. Amount loaned on notes secured by collaterals of personal property. 12th. Amount loaned on notes without collaterals. 13th. State, in full, all other investments. 14th. How much, included, in the foregoing statements of assets, consists of premium notes on policies not returned as now in force. 15th. Number, date, kind, and amount of each outstanding policy, and age of the insured, excepting such policies as are subject to a valuation by the proper officer in some other State, which shall be shown by certificate from the insurance department of such State. 16th. Number and amount of each class or kind of policies which have, within the year, ceased to be in force; how terminated; what has been paid to the legal holders of the policies. 17th. Amount of losses ascertained and unpaid. 18th. Amount of losses claimed against the company, whether acknowledged as due or not by the company. 19th. Amount due from the company on its declared, promised, or acknowledged indebtedness, or other claims, including dividends, bonuses on distribution of surplus, or as profits. 20th. Amount received for premiums the past year. 21st. Amount received for premiums in cash. 22d. Amount received for premiums in promissory notes or securities. 23d. Amount received for interest the past year. 24th. Amount paid for interest the past year. 25th. Amount of guarantee funds, and state particularly whether the same are in cash or in subscription notes. 26th. How are dividends, distributions of surplus funds, bonuses or estimated profits paid?—whether in cash, scrip, or otherwise on credit, and whether on demand; or if on credit, for what length of time, and whether payable at a specific

time or indefinitely, at the discretion of the company. 27th. Amount paid for the expenses, taxes and commissions the past year, classified. (*Ibid*, § 41.)

41. All life insurance companies chartered or organized in any other State of the United States, or beyond the limits of the United States, and doing business in this State, shall make an annual statement of their condition and affairs to the insurance department, in the same manner and in the same form as similar companies organized under the laws of this State. The Auditor shall have authority to extend the time for filing such statement, for reasons which he shall deem good and sufficient, whether the company is organized in this State or elsewhere. The statements herein provided for shall be in lieu of any and all statements now required by any existing law, and the several provisions of the acts approved February the twelfth, eighteen hundred and fifty-three, February the fourteenth, eighteen hundred and fifty-five, and January the twenty-second, eighteen hundred and fifty-seven, are hereby repealed so far as they relate to life insurance. (*Ibid*, p. 696, § 42.)

45. Life insurance companies chartered beyond the limits of the United States, and doing business in this State, shall make a return of their standing on the thirty-first day of December in each year, agreeable to the form required by this act of other companies doing business in this State, said return to be made to the Auditor on or before the first day of April, annually, and verified and sworn to before some consul or vice-consul of the United States, by two or more of the principal officers of such insurance company. (*Ibid*, § 43.)

46 Any company doing business in this State, neglecting to make returns in the manner and within the time hereinbefore authorized and prescribed, shall forfeit one hundred dollars for each day's neglect; and every company that willfully makes false statements, shall be liable to a fine of not less than five hundred dollars, nor more than one thousand dollars. Any new business done by any company, or its agents, in this State, after neglect to make the prescribed returns, shall be deemed to be done in violation of law. (*Ibid*, § 44.)

47. When the actual funds of any life insurance company doing business in this State are not of a net value equal to the net value of its policies, according to the "combined experience" or "actuaries" rate of mortality, with interest at four per centum per annum, it shall be the duty of the Auditor to give notice to such company and its agents to discontinue issuing new policies within this State until such time as its funds have become equal to its liabilities, valuing its policies as aforesaid. Any officer or agent who, after such notice has been given, issues or delivers a new policy from and on behalf of such company before its funds have become equal to its liabilities as aforesaid, shall forfeit, for each offense, a sum not exceeding one thousand dollars. (*Ibid*, § 45.)

48. It shall be lawful for any company, organized in this State, to invest its funds or accumulations in stocks of the United States, or of this State, or of any city or town in this State, or in any National bank, or in such other stocks and securities as may be approved by the Auditor, or in mortgages (being first liens) on real estate, being worth at least twice the amount of money loaned thereon. (*Ibid*, § 46.)

49. When any life insurance company, organized under the

laws of this State, shall transact business in any other State, it may invest its surplus funds in such State in like security and under the same restrictions as in this State. (*Ibid*, § 47.)

**50.** The Auditor is hereby authorized and empowered to address any inquiries to any life insurance company, or to the secretary thereof, in relation to its doings or conditions, or any other matter connected with its transactions, and it shall be the duty of any such company, so addressed, to reply promptly, in writing, to any such inquiries; and all such companies, not incorporated under the laws of this State, failing to answer all such inquiries, shall not be authorized to transact any business in this State, and their certificates of authority may be revoked and canceled. It shall be the duty of the Auditor to make, or cause to be made, an examination of the condition and affairs of any life insurance company doing business in this State, whenever he shall deem it expedient to do so, and also whenever he shall have good reason to suspect the correctness of any annual statement, or that the affairs of any company making such statement are in an unsound condition. (*Ibid*, § 48.)

**51.** Life insurance companies doing business in this State, which do business upon the principle of mutual insurance, or the members of which are entitled to share in the surplus funds thereof, may make distribution of such surplus as they have accumulated, annually, or once in two, three, four, or five years, as the directors thereof may, from time to time, determine. In determining the amount of the surplus to be distributed, there shall be reserved an amount not less than the aggregate net value of all the outstanding policies; said value being computed by the "combined experience" or "actuary" rate of mortality, with interest not exceeding four per cent. (*Ibid*, p. 607, § 49.)

**52.** Every life insurance company not organized in this State, before doing business in this State, shall, in writing, appoint an attorney, resident in this State, upon whom all lawful process against the company may be served with like effect as if the company existed in this State; and said writing or power of attorney shall stipulate and agree, on the part of the company making the same, that any lawful process against said company, which is served on said attorney, shall be of the same legal force and validity as if served on said company. A copy of the writing, duly certified and authenticated, shall be filed in the office of the Auditor, and copies, certified by him, shall be sufficient evidence. This agency shall be continued while any liability remains outstanding against the company in this State, and the power shall not be revoked until the same power is given to another, and a like copy filed as aforesaid. Service upon said attorney shall be deemed sufficient service upon the company. (*Ibid*, § 50.)

**53.** The Treasurer of the State, in his official capacity, shall take and hold on deposit the securities of any life insurance company incorporated under the laws of this State, which are deposited by any such company for the purpose of securing policy-holders and complying with the laws of any State, in order to enable such company to transact business in such State. The company depositing such securities shall have the right to receive the income thereof, and at any time to exchange the same, according to the laws of the State in which they may be doing business. (*Ibid*, § 51.)

**54.** If any life insurance company organized in this State, or



in any other State of the United States, or in any foreign country, whose policies are not valued by the insurance department or proper officers of any other State, shall transact business in this State, it shall be the duty of the Auditor to calculate the existing value of all outstanding policies of such company; and every such company shall pay, annually, to the Auditor of this State, by way of compensation for the valuation of its policies, three cents on every thousand dollars insured by it on lives. (*Ibid*, § 52.)

**55.** No life insurance company organized under the laws of this State shall issue policies insuring fire, or marine, or accident, or live-stock risks, or do any banking business. (*Ibid*, § 53.)

**56.** It shall be lawful for any married woman, by herself and in her own name, or in the name of any third person, with his assent as her trustee, to cause to be insured, for her sole use, the life of her husband, for any definite period, or for the term of his natural life; and in case of her surviving such period or term, the sum or net amount of the insurance becoming due and payable by the terms of the insurance shall be payable to her to and for her own use, free from the claims of the representatives of the husband or of any of his creditors; *Provided, however*, That if the premium of such policy is paid by any person with the intent to defraud his creditors, an amount equal to the premium so paid, with interest thereon, shall inure to the benefit of said creditors, subject, however, to the statute of limitations. The amount of the insurance may be made payable, in case of the death of the wife before the period at which it becomes due, to his, her, or their children, for their use, as shall be provided in the policy of insurance, and to their guardian, if under age. (*Ibid*, § 54.)

**57.** Whenever the existing or future laws of any other State of the United States shall require of life insurance companies incorporated by or organized under the laws of this State, and having agencies in such other State, or of the agents thereof, any deposit of securities in such State for the protection of policy-holders, or otherwise, or any payment for taxes, fines, penalties, certificates of authority, license fees, or otherwise greater than the amount required for such purposes from similar companies of other States by the then existing laws of this State, then, and in every such case, all life insurance companies of such States establishing, or having heretofore established, an agency or agencies in this State, shall be and are hereby required to make the same deposit, for a like purpose, with the State Treasurer of this State, and to pay to the Auditor for taxes, fines, penalties, certificates of authority, license fees, or any other obligation, an amount equal to the amount of such charges and payments imposed by the laws of such other State upon the companies of this State, and the agents thereof. (*Ibid*, p. 608, § 55.)

**58.** Every life insurance company not organized under the laws of this State, shall, before doing business in this State, deposit with the Auditor a copy of the charter of the company, and statement, signed and sworn to by the president or vice-president and secretary, in the form prescribed or authorized for the annual statement adapted to the business done by such company. (*Ibid*, § 56.)

**59.** Every person acting for a life insurance company not incorporated in this State, shall exhibit, in conspicuous letters, on the sign designating his place of business, the name of the State under whose authority the company he represents has been incor-

porated; and the said company and agent shall also have printed, in large type, the name of said State upon all policies issued to citizens of this State, and on all placards, pamphlets, and circulars published, issued, or circulated in this State by them or him, relating to the business of said company. (*Ibid*, § 57.)

**60.** Whoever solicits insurance on behalf of any life insurance company not chartered by, and not established within, this State, or transmits, for any person other than himself, an application for life insurance, or a policy of life insurance, to or from such company, or advertises that he will receive or transmit the same, shall be held to be an agent of such company to all intents and purposes, and subject to all the duties, requisitions, liabilities, and penalties set forth in the laws of this State, relating to life insurance companies not incorporated by the legislature thereof. (*Ibid*, § 58.)

**61.** Any agent making insurance in violation of any law of this State regulating life insurance companies, shall forfeit, for each offense, a sum not exceeding five hundred dollars. (*Ibid*, § 59.)

**62.** For filing the annual statement required in the office of the Auditor, the said Auditor shall be paid ten dollars; for each agent's certificate of authority, two dollars; for every copy of a paper filed in the Auditor's office twenty cents per folio; and for affixing the seal of said office to such copy and certifying the same, one dollar; and for examining the affairs of any company, when deemed necessary, the expenses incurred therein shall be paid to the said Auditor by the company. (*Ibid*, § 60.)

**63.** The Auditor shall annually prepare and print, in a single document, the information contained in the statements made under this act, and shall communicate the same to the General Assembly. He shall also cause the annual statements required to be filed by this act to be published in two daily newspapers of general circulation, the one printed in the city of Chicago and the other in the city of Springfield, not less than one month. (*Ibid*, § 61.)

**64.** This act shall be deemed a public act, and take effect and be in force from and after the first day of July next. But nothing herein contained shall prevent the Auditor from receiving statements from companies desiring to file the same, as herein specified, at any time after the approval of this act by the Governor. (*Ibid*, p. 609, § 63.)

## SURRENDER OF SECURITIES.

**65.** Any life insurance company which desires to retire from business, may notify the holders of its outstanding policies, and publish its intention to retire from business, for thirty successive days, in some newspaper published in Chicago, and having a general circulation; and if such policy-holders elect to have their policies canceled, such company shall refund and pay to the policy-holder, within ninety days thereafter, the net value of the policy, valued in accordance with the laws of this State, after deducting any indebtedness that may exist against such policy, or if any policy-holders shall so elect, the company may secure for such persons reinsurance in another company—which reinsurance shall equal in value the net value of such policies as aforesaid, and the company assuming the insurance shall issue to each of such persons a policy, in lieu of such policies as may be canceled for that purpose. When

it appears to the Auditor that any such company has canceled its policies, as herein provided, and has no other liability existing—a statement of which shall be certified by the affidavit of the president and secretary of the company—he shall give such company his certificate, upon which it may withdraw its securities deposited with the State Treasurer; *Provided*, That any company having discontinued business prior to the passage of this act, by obtaining the cancellation of its policies as herein provided, may in like manner withdraw its securities so deposited, or such company may withdraw its securities by depositing other *bona fide* securities of the kind provided by law, in lieu therefor, to the amount of all its outstanding policies. (*Ibid*, § 64.)

### TOWNSHIP COMPANIES.

**66.** Any number of persons, not less than twenty-five, residing in any congressional or political township, or in one or more adjoining congressional or political townships in this State, not exceeding six in number, and without regard to county lines, who collectively shall own property of not less than fifty thousand dollars in value, which they desire to have insured, may form an incorporated company for the purpose of mutual insurance against loss or damage by fire or lightning. (*Ibid*, § 65.)

**67.** Such persons shall file with the Auditor of Public Accounts a declaration of their intention to form a company for the purposes expressed in the preceding section, which declaration shall be signed by all the corporators, and shall contain a copy of the charter proposed to be adopted by them. Such charter shall set forth the name of the corporation, which shall embrace the name of the township in which the business office of such company is to be located, and the intended duration of the company; and if it is found conformable to this act, and not inconsistent with the laws and constitution of this State, the Auditor shall thereupon deliver to such persons a certified copy of the charter, which, on being filed in the office of the County Clerk of the county where the office of such company is to be located, shall be their authority to organize and commence business. Such certified copy of the charter may be used in evidence for or against said company, with the same effect as the original; *Provided*, That such charter so obtained shall be subject to control of and modification by the General Assembly. (*Ibid*, § 66.)

**68.** The number of directors shall be nine—five of whom shall constitute a quorum to do business—to be elected from the corporators by ballot, and hold their offices until their successors are elected and qualified. In the election of the first board of directors each corporator shall be entitled to one vote. All subsequent elections, except to fill vacancies, shall be held at the annual meeting of the company, which shall be on the first Tuesday after the first Monday in January in each year. And every person insured shall be entitled to as many votes as there are directors to be elected, and an equal additional number for each \$500 that he may be insured in the company, and may cast the same in person or by proxy, distributing them among the same or a less number of candidates than the number of directors to be elected, or cumulating them upon one candidate, as he shall think fit. (*Ibid*, p. 610, § 67.)

**69.** The directors shall elect from their number a president and a treasurer, and shall also elect a secretary, who may or may not be a member of the company—all of whom shall hold their office for one year, and until their successors are elected and qualified. (*Ibid*, § 68.)

**70.** The treasurer and secretary shall each give bonds to the company for the faithful performance of their duties, in such amounts as shall be prescribed by the Board of Directors. (*Ibid*, § 69.)

**71.** Such corporation and its directors shall possess the usual powers, and be subject to the usual duties, of corporations and directors thereof, and may make such by-laws, not inconsistent with the constitution or laws of this State, as may be deemed necessary for the management of its affairs, in accordance with the provisions of this act; also, to prescribe the duties of its officers, and fix their compensation, and to alter and amend its by-laws when necessary. (*Ibid*, § 70.)

**72.** Any person owning property in the district for which any such company is formed, if he resides in the county in which such district is in whole or in part situated, may become a member of such company by insuring therein, and shall be entitled to all the rights and privileges appertaining thereto; but a person not residing within the district for which the company is formed shall not become a director of such company. (*Ibid*, § 71.)

**73.** Such company may issue policies only on detached dwellings, barns (except livery, boarding, and hotel barns), and other farm buildings, and such property as may properly be contained therein, for any time not exceeding five years, and not to extend beyond the limited duration of the charter, and for an amount not to exceed three thousand dollars on any one risk. All persons so insured shall give their obligation to the company, binding themselves, their heirs and assigns, to pay their *pro rata* share to the company of the necessary expenses, and of all losses by fire or lightning which may be sustained by any member thereof during the time for which their respective policies are written; and they shall, also, at the time of effecting the insurance, pay such percentage in cash, and such other charge as may be required by the rules or by-laws of the company. (*Ibid*, § 72.)

**74.** Any such company may classify the property insured therein at the time of issuing policies thereon, under different rates, corresponding, as nearly as may be, to the greater or less risk from fire or lightning and loss which may attach to each several building insured. (*Ibid*, § 73.)

**75.** No such company shall insure any property beyond the limits of the district comprised in the formation of the company, nor shall they insure any property within the limits of any city containing over twelve thousand inhabitants at the time of the organization of such company. (*Ibid*, § 74.)

**76.** Every member of such company who may sustain loss or damage by fire or lightning shall immediately notify the president of such company, or in case of his absence, the secretary thereof, who shall forthwith convene the directors of such company, whose duty it shall be, when convened, to appoint a committee of not less than three members of such company, to ascertain the amount of such loss; and in case of the failure of the parties to agree upon the amount of such damage, the claimant may appeal to the judge of the



county court of the county in which the office of such company is located, whose duty it shall be to appoint three persons as a committee of reference, who shall have full authority to examine witnesses, and to determine all matters in dispute, and shall make their award in writing to the president of such company, and such award shall be final. The pay of said committee shall be two dollars per day for each day's service so rendered, and four cents for each mile necessarily traversed in the discharge of their duties, which shall be paid by the claimant, unless the award of said committee shall exceed the sum offered by the company in liquidation of such loss or damage, in which case said expenses shall be paid by the company. (*Ibid*, § 75.)

**77.** Whenever the amount of any loss shall have been ascertained, which exceeds in amount the cash funds of the company, the president shall convene the directors of said company who shall make an assessment upon all the property to the amount for which each several piece of property is insured, taken in connection with the rate of premium under which it may be classified. (*Ibid*, p. 611, § 76.)

**78.** It shall be the duty of the president, whenever such assessment shall have been made, to immediately notify every person composing such company, personally, by an agent or by letter sent to his usual post office address, of the amount of such loss, and the sum due from him as his share thereof, and of the time when and to whom such payment is to be made; but such time shall not be less than thirty nor more than ninety days from the date of such notice. (*Ibid*, § 77.)

**79.** Suits at law may be brought against any member of such company who shall neglect or refuse to pay any assessment made upon him by the provisions of this act; and the directors of any company so formed, who shall willfully refuse or neglect to perform the duties imposed upon him by the provisions of this act, shall be liable in their individual capacity, to the person sustaining such loss. Suits at law may also be brought and maintained against any such company, by members thereof, for losses sustained, if payment is withheld after such losses have become due. (*Ibid*, § 78.)

**80.** It shall be the duty of the secretary to prepare an annual statement, showing the condition of such company on the thirty-first day of December, and present the same at the annual meeting. (*Ibid*, § 79.)

**81.** Any member of such company may withdraw therefrom by surrendering his policy for cancellation, at any time while the company continues the business for which it was organized, by giving notice in writing to the secretary thereof, and paying his share of all claims then existing against said company; *Provided*, That by the withdrawal of any such member the number of the members remaining in the company shall not be reduced below the original number of corporators, or that the assets will not be reduced below the amount at the time of the organization; *Provided, further*, That the company shall have power to cancel or terminate any policy by giving the insured notice to that effect. (*Ibid*, § 80.)

**82.** It shall be the duty of the president and secretary of every such company, on the first day of January of each year, or within one month thereafter, to prepare, under their own oath, and transmit to the Auditor of Public Accounts, a statement of the condition of the company on the thirty-first day of December then next pre-

ceding, in such form as the Auditor may direct. If, upon examination, he is of the opinion that such company is doing business correctly, in accordance with the provisions of this act, he shall thereupon furnish the company his certificate, which shall be deemed authority to continue business the ensuing year, subject, however, to subsequent provisions of this act. For such examination and certificate the company shall pay one dollar. Each company shall pay, at the time of organization, ten dollars for the Auditor's services, all of which shall be paid into the State treasury and applied to the insurance fund. (*Ibid*, § 81.)

**83.** Any such company may be proceeded against and dissolved in the manner and upon the same conditions as provided in case of other insurance companies incorporated in this State. (*Ibid*, p. 612, § 82.)

**84.** Any township insurance company formed under an act entitled "An act to incorporate and govern mutual fire insurance companies in townships," approved April 3, 1872, may, with the written consent of two-thirds of the members, accept the provision of this act, and thereupon shall be governed by its provision. Before any such company shall be entitled to the benefits thereof, the directors or a majority of them shall file with the Auditor of Public Accounts the declaration provided for in section two of this act. (*Ibid*, § 83.)

#### DISSOLUTION OF INSURANCE COMPANIES.

**85.** If the Auditor of State, upon examination of any insurance company incorporated in this State, is of the opinion that it is insolvent, or that its condition is such as to render its further continuance in business hazardous to the insured therein, or to the public, or that it has failed to comply with the rules, restrictions, or conditions provided by law, or has exceeded or is exceeding its corporate powers, he shall apply by petition to a judge of any circuit court of this State to issue an injunction restraining such company, in whole or in part, from further proceeding with its business, until a full hearing can be had, or otherwise, as he may direct. It shall be discretionary with such judge either to issue said injunction forthwith, or to grant an order for such company, upon such notice as he may prescribe, to show cause why said injunction should not issue, or to cause a hearing to be had on complaint and answer, or otherwise, as in ordinary proceedings in cases in equity, before determining whether an injunction shall be issued. He may in all such cases make such orders and decrees, from time to time, as the exigencies and equities of the case may require, and in any case, after a full hearing of all parties interested, may dissolve, modify, or perpetuate such injunction, and make all such orders and decrees as may be needful to suspend, restrain, or prohibit the further continuance of the business of the company. (*Ibid*, § 84.)

**86.** When a majority, in number or interest, of the members or stockholders of any insurance company incorporated in this State, desire to close its concerns, they may apply by petition to the circuit court of the circuit in which the company is located, setting forth in substance the grounds of their application; and the court, after due notice to all the parties interested, may proceed to hear the matter, and for reasonable cause decree a dissolution of the corporation; and corporations so dissolved shall be deemed and

held extinct in all respects as if their charters had expired by their own limitation, subject, however, to the provisions hereinafter prescribed. (*Ibid*, § 85.)

87. The charters of all insurance companies incorporated in this State, which, either from neglect or by vote of their members or officers, or in obedience to the decree of any court, have ceased, or shall hereafter cease, for the period of one year, to transact the business for which they were organized, shall be deemed and held extinct in all respects as if they had expired by their own limitation; and the circuit court shall have authority, upon application, by the petition of the Auditor of State, or of any person interested, to fix, by decree, the time within which such companies shall close their concerns; *Provided*, That this section shall not be construed to relieve any such company from its liabilities to the assured or any of its creditors. (*Ibid*, § 86.)

88. Insurance companies whose charters expire by their own limitation, or become forfeited by non-user, or are dissolved by decree of court, or otherwise, shall, nevertheless, be continued bodies corporate for the term of two years after such expiration, forfeiture, or dissolution, for the purpose of prosecuting and defending suits by or against them, and of enabling them gradually to settle and close their concerns, to dispose of and convey their property, and divide their capital stock and assets, but not for the purpose of continuing the business for which they were organized. (*Ibid*, p. 613, § 87.)

89. When the charter of any such insurance company expires, is forfeited or annulled, or the corporation is restrained from further prosecution of its business, or is dissolved, as hereinbefore provided, the court, on application of the Auditor, or of a member, stockholder, or creditor, may, at any time before the expiration of said two years, appoint one or more persons to be receivers, to take charge of the estate and effects of the company, including such securities as may be deposited with the Auditor or Treasurer of State, and to collect the debts due, and property belonging to it, with power to prosecute and defend suits in the name of the corporation, or in their own names, to appoint agents under them, and do all other acts necessary for the collection, marshaling and distributing of the assets of the company, and the closing of its concerns; and when necessary for the final settlement of its unfinished business, the powers of such receivers may be continued as long as the court deems necessary therefor. (*Ibid*, § 88.)

90. The receiver shall pay all debts due from the company, if the funds in his hands are sufficient therefor, and if not, he shall distribute the same ratably among the creditors who prove their debts, in such manner as the court may direct, and receivers may be authorized by the court to sell, convey, and dispose of, and convert into money, any of the securities or assets of the company, for the purpose of paying such debts and distributing such funds. If there is a balance remaining after the payment of the debts, the receiver shall distribute the same among those who are justly entitled thereto, as members, stockholders, or otherwise, or their legal representatives. (*Ibid*, § 89.)

91. Receivers of insurance companies, appointed as aforesaid, shall report to the Auditor of State, annually, in such manner as he shall prescribe, on or before the first day of January, and as much oftener as he may direct, and such reports, or abstracts there-

from, may be incorporated into his annual report on insurance. (*Ibid*, § 90.)

**92.** The compensation of receivers, and their expenses, shall be determined by decree of court, but shall not exceed the costs of court, and five per cent. of the amount collected of any of the assets of the company. (*Ibid*, § 91.)

**93.** The mode of summoning parties into court, the rules of practice, course of procedure, and powers of courts, in cases arising under this act, shall be the same as in ordinary proceedings in equity in this State, except as herein otherwise provided. (*Ibid*, § 92.)

### UNDERWRITERS' PATROL.

**94.** Boards of underwriters incorporated by or under the laws or the State of Illinois, shall have power to provide suitable rooms for the accommodation of a fire patrol, and also to provide a patrol of men and a competent person to act as superintendent, to discover and prevent fires, with suitable apparatus to save and preserve property or life at and after a fire; and the better to enable them so to act with promptness and efficiency, full power is given such superintendent and such patrol to enter any building on fire, or which may be exposed to or in danger of taking fire from other burning buildings, subject to the control of the fire marshal of the city, and at once proceed to protect and endeavor to save the property therein, and to remove such property, to any part thereof, from the ruins after a fire. (*Revised Statutes*, 1874, p. 1087, § 1.)

**95.** In the month of July of each year, there shall be held a meeting of said Board of Underwriters, of which ten days' previous notice shall be inserted in at least one daily newspaper, published in the city where said Board of Underwriters is located, at which meeting each insurance company, corporation, association, underwriter, agent, person, or persons doing a fire insurance business in the city, shall have the right to be represented at such meeting and shall be entitled to one vote. A majority of the whole number so represented shall have power to decide upon the question of sustaining the fire patrol hereinbefore mentioned, and of fixing a maximum amount of expenses which shall be incurred therefor during the fiscal year next to ensue, which amount shall in no case exceed two per centum on the aggregate of premiums returned as received, as provided in section 3 of this act; and the whole of such amount, or so much thereof as may be necessary, may be assessed upon all insurance companies, organizations, corporations, associations, and persons who assume risks and accept premiums for fire insurance in said city as hereinbefore mentioned, in proportion to the several amounts of premiums returned as received by each, as hereinafter provided, and such assessment shall be collectable by and in the name of said Board of Underwriters in any court of law in the State of Illinois having jurisdiction, in such manner and at such time or times as said Board of Underwriters may determine. (*Ibid*, § 2.)

**96.** To provide for the payment of persons employed under the provisions of this act, and to maintain suitable rooms, and the apparatus for saving life and property contemplated, said board of underwriters is empowered to require a statement to be furnished semi-annually by all insurance companies, corporations, associations, underwriters, agents, or persons, of the aggregate amount of pre-



miums received for insuring property in the city where said Board of Underwriters is organized or established, for and during the six months next preceding the first day of July and the first day of January of each year, which statement shall be sworn to by the president or secretary of the corporation or association, or by the agent or person so acting and effecting such insurance in said city, and shall be handed to the secretary of said Board of Underwriters, within such time as is hereinafter provided in section 4 of this act. (*Ibid*, § 3.)

**97.** It shall be lawful for the secretary or other appointed officer of said Board of Underwriters, within ten days after the first day of July and the first day of January in each year, by written or printed demand, signed by him, to require from every insurance company, corporation, association, underwriter, agent, or person engaged in the business of fire insurance in the city where said Board of Underwriters is organized or established, the statement provided for in the last preceding section of this act. Such demand may be delivered personally at the office of such insurance company, corporation, association, underwriter, agent, or person; and every officer of such insurance company, corporation, or association, and every individual agent, underwriter, or person who shall, for fifteen days after such demand, neglect to render the account, shall forfeit fifty dollars, for the use of said Board of Underwriters, and he shall also forfeit for its use twenty-five dollars in addition for every day he shall so neglect after the expiration of the said fifteen days; and such additional penalty may be computed and recovered up to the time of trial of any suit for the recovery thereof, which penalty may be sued for and recovered, with costs of suit, in any court of law within the State of Illinois, having jurisdiction, by and in the name of said Board of Underwriters. (*Ibid*, p. 1088, § 4.)

### ARSON AND INCENDIARISM.

**98.** Every person who shall willfully and maliciously burn or cause to be burned any dwelling-house, kitchen, office, shop, barn, stable, storehouse, warehouse, malt-house, stilling house, factory, mill, pottery, or other building, the property of any other person, or any church, meeting-house, school-house, state-house, court-house, workhouse, jail, or other public building, or any boat or other water craft, or any bridge of the value of fifty dollars, erected across any of the waters of this State, such person so offending shall be deemed guilty of arson, and upon conviction thereof, shall be punished by imprisonment in the penitentiary for a term not less than one year, nor more than twenty years; and should the life of any person be lost in consequence of any such burning, such offender shall be deemed guilty of murder, and punished accordingly. (*Revised Statutes*, 1874, p. 354, § 13.)

**99.** Whoever willfully and maliciously burns or sets fire to, or causes to be burned or set on fire, any building, or any goods, wares, merchandise, or other chattels which are at the time insured against loss by fire, with intent to injure the insurer, whether such person is the owner of the property burned or not, shall be imprisoned in the penitentiary not less than one nor more than ten years. (*Ibid*, § 14.)

**100.** Whoever willfully and maliciously burns or causes to be burned, any barrack, cock, crib, rick, or stack of hay, corn,

wheat, oats, barley, or other grain, or vegetable product of any kind, or any pile of coal, wood, or other fuel, or any pile of boards, plank, posts, rails or other lumber, or any personal property whatever, of another, shall be imprisoned in the penitentiary not less than one nor more than six years. (*Ibid*, § 15.)

**101.** Whoever willfully or maliciously sets fire to, or attempts to set fire to any of the buildings or other property mentioned in sections thirteen and fifteen above, with intent to burn or destroy the same, shall be imprisoned in the penitentiary not exceeding two years, and fined not exceeding five thousand dollars. (*Ibid*, § 16.)

**102.** If the owner, lessee, or occupant of any of the buildings or property mentioned in sections thirteen and fifteen of this act, sets fire or attempts to set fire to or burn the same, with intent to set on fire or burn the building or property of another, he shall be deemed guilty as if the property so set on fire, or attempted to be set on fire or burned, were owned or occupied by another. (*Ibid*, § 17.)

**103.** For General Provisions relating to Corporation, see Revised Statutes, 1874, pp. 285, 296; Laws of 1875, pp. 65, 66.

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# INSURANCE STATUTES OF INDIANA.

*Revised by John A. Finch, Esq., of the Indianapolis Bar.*

## CONSTITUTIONAL PROVISIONS CONCERNING CORPORATIONS.

**1.** Corporations other than banking shall not be created by special act, but may be formed under general laws. (*Art. 11, § 13.*)

**2.** Dues from corporations other than banking shall be secured by such individual liability of the corporators, or other means, as may be prescribed by law. (*Art. 11, § 14.*)

**3.** When any number of persons, not less than nine, shall associate themselves together for the purpose of organizing an insurance company, they shall designate three persons to act as commissioners, to superintend and receive subscriptions to the capital stock of such company, and such commissioners shall first give twenty-one days' notice in one or more newspapers published in the counties where the subscription books are proposed to be opened, stating therein the time and place, or places of receiving such subscriptions. (*Revised Statutes, 1 G. & H., 1862, p. 389, § 1.*)

**4.** The capital stock of any insurance company organized under this act shall not be less than one hundred thousand dollars, in shares of fifty dollars each; but such capital stock may be increased to an amount not exceeding five hundred thousand dollars, by a vote of two-thirds of the directors. (*Ibid., § 2.*)

**5.** The commissioners shall attend at the time and place or places specified in such notice, and open books for subscription of stock, and any person, company, or corporation may subscribe the same, and shall pay at the time of such subscription, two dollars on each share. The books may be closed when the whole of the capital stock is subscribed, but not otherwise, and when a board of directors is elected, as hereinafter provided, said commissioners shall deliver to such board the books and money paid in upon subscriptions as aforesaid. (*Ibid., § 3.*)

**6.** The business of every such company shall be managed and conducted by not less than seven, nor more than thirteen directors, who shall also be stockholders, one of whom shall be president of the company; and they shall hold offices for one year, and until others are chosen and qualified in their stead. (*Ibid., p. 390, § 4.*)

**7.** Such companies shall elect annually, or oftener, a secretary, who shall be clerk of the company, and shall be sworn to the faithful discharge of his duty; and he shall, in addition to his other official duties, keep a true record of all the votes of the stockholders and of the directors, and a true list of the stockholders, and the number of shares held by each one, and shall make proper entries of every transfer of shares, in a book to be by him kept for that purpose. (*Ibid., § 5.*)

8. The directors shall be chosen by the stockholders once in each year, at such time and place, and in such manner as shall be provided in the by-laws of the company; all elections shall be by ballot; absent stockholders may vote by proxy, authorized in writing; twenty days' notice shall be given of all elections, and of annual or special meetings. (*Ibid*, § 6.)

9. The directors shall choose from their number, one person to be president, and one to be vice-president, who shall be sworn to perform faithfully the duties of their respective offices, and every vacancy in the office of president, or vice-president, and directors, that may occur shall be filled by a new election, as hereinbefore prescribed. (*Ibid*, § 7.)

10. Special meetings shall be called by the secretary or clerk of the company, upon the written application of the owners of one-fifth of the capital stock, to be held at such time and place as he shall direct for the purposes set forth in such application. (*Ibid*, § 8.)

11. A majority of the directors shall constitute a quorum to do business; and all questions, unless otherwise provided, shall be decided by a majority vote of those present. (*Ibid*, § 9.)

12. All persons who are stockholders in any such insurance company are hereby constituted and declared a body politic and corporate, by such name and style as the company may adopt, to continue thirty years from and after the organization of the same. (*Ibid*, § 10.)

13. Such company may acquire and hold real estate necessary for the transaction of its business, to an amount at any time not exceeding thirty thousand dollars, and may take and hold real estate or securities mortgaged or pledged for the payment of any debt due or becoming due; and also purchase on sales made by virtue of any judgment or decree of any court, in such company's favor; and may take and receive real estate in payment, or in part satisfaction of any debt previously contracted or due; but all real estate other than that retained for the transaction of its business shall be sold and converted into money or stocks, as soon as the same can be done advantageously; *Provided*, Such company shall be required to offer said real estate once in every two years at public auction to the highest bidder. (*Ibid*, § 11.)

14. The capital stock of such company shall be paid in within eighteen months from the time of its subscription, in such sums as the directors may require; and such stock shall be transferable and assignable on the books of the company, in such manner as the by-laws may prescribe. (*Ibid*, p. 391, § 12.)

15. Whenever the president and directors, or a majority of them, shall certify under oath, before an officer entitled to administer the same, that one-half of the capital stock is actually paid in, and a moiety of said half has been invested in solvent stocks, and shall produce the subscription books, verified by the oath of the commissioners superintending such subscriptions, the Auditor of the State, if upon inspection of such books, certificate, and stock securities, and all other matters connected therewith, shall be satisfied that the requirements of this act have been complied with, upon the deposit of the stock securities aforesaid in his office, shall give a certified statement, directed to the Secretary of State, setting forth the name of the company, the amount of its capital stock, the amount and description of its stock securities, and the principal place of business of such company. (*Ibid*, § 13.)

**16.** Such statement shall be filed in the office of the Secretary of State, and that officer shall give to such company or authorized agent thereof a certificate of incorporation, under his seal of office, declaring the corporate name of such company, the amount of their capital stock, and of securities deposited, and shall authorize such company, from and after the date thereof, to issue policies of insurance, according to the true intent and meaning of this act; and such certificate shall be conclusive evidence of the validity of its organization. (*Ibid*, § 14.)

**17.** The Auditor shall be entitled to five dollars for the examination and statement, and the Secretary to two dollars for the certificate of incorporation, which shall be paid by the company. (*Ibid*, § 15.)

**18.** The stocks thus deposited shall remain in the office of the Auditor of State, who is hereby charged with the custody of the same, and shall, upon the application of the company entitled thereto, give powers of attorney to receive the interest or dividends of such securities when due or made, except as hereinafter provided. The company holding the same may withdraw a portion of such stocks upon substituting other securities of like class or nature, with the consent of the Auditor. (*Ibid*, § 16.)

**19.** Such securities shall constitute a guarantee fund, which shall be for the benefit of the insured in such company, and the proceeds of the sale thereof shall be applied as herein named, and in the following order and for no other purpose whatever:

*First.*—To the payment of losses incurred by the assured, under any policy made by such company.

*Second.*—The payment of laborers, artificers, and other persons in the employ of such company.

*Third.*—The payment of the trusts held and reduced to possession by such company.

*Fourth.*—The payment of all other debts and liabilities owing from such company; but the proceeds of such securities shall in all cases be applied ratably to the class first in order, and the remainder, if any, to the other classes in their succession, as herein defined, and not otherwise. (*Ibid*, § 17.)

**20.** Such company shall, before any dividends declared upon the capital stock thereof are paid over to the holders of the same, retain five per cent. on all such dividends, and within six months thereafter shall cause the sum thus retained to be invested in solvent stocks, as heretofore provided, and deposit them with the Auditor of State. Such stocks shall be added to and constitute a part of the guarantee fund, but shall not be considered any portion of the capital stock of such company. (*Ibid*, p. 392, § 18.)

**21.** Whenever any of the stocks thus deposited have, in the estimation of the Auditor of State, fallen below the value at which they were received, such officer shall give notice to the company making such deposit of such depreciation, and require the said company within sixty days from the date thereof, to deposit other stock securities to an amount equal to such depreciation or deficiency. (*Ibid*, § 19.)

**22.** Every such company may make insurances upon vessels, freight, money, goods, and effects, on the life or health of any person, or on money lent, upon bottomry or respondentia; and they may also make insurance against fire on any dwelling-house or other building, merchandise, or other property within the United States. (*Ibid*, § 20.)

**23.** All policies of insurance made by such companies, shall be subscribed by the president, or if he be dead, or unable from any cause, then by the vice-president, and countersigned by the secretary thereof. All losses arising under any policies so executed shall be adjusted and settled by the president and board of directors. (*Ibid*, § 21.)

**24.** Whenever such company shall be notified of any loss sustained on a policy of insurance issued by them, the company shall pay the amount so lost within sixty days after such notice, under a penalty of ten per centum damages for every thirty days such loss remains unpaid thereafter. (*Ibid*, § 22.)

**25.** Whenever the cash means of such company are insufficient to pay the losses incurred on any policy of insurance, the secretary thereof shall immediately notify the Auditor of State of such fact, and such Auditor shall, within thirty days after such notice, if practicable, sell at either public or private sale so much of said stock as shall be required to pay the losses as aforesaid. Such company shall not declare any dividends thereafter until the deficiency created by such sale has been made good by the net earnings of the corporation, and the same is converted into stocks and deposited with the Auditor as hereinbefore provided; but such Auditor or any stockholder of such company shall not, directly or indirectly, be the purchaser of any of the stocks sold in conformity to the provisions of this act. Whenever, by a vote of the directors, as specified in section second, the capital stock in such company is increased, one-half of such increase shall be invested in stocks as aforesaid and deposited with the Auditor of State, within twelve months from the date of the order or resolution of such board of directors, and such deposit shall be accompanied with a statement under oath, signed by a majority of such directors, that the increased capital is paid into the treasury of such company, or secured to be paid in, and it shall be the duty of the Auditor in like manner as upon the original deposit and statement of such company, to certify the same to the Secretary of State, whose certificate shall be evidence of the increase of such capital stock. (*Ibid*, § 23.)

**26.** Such companies shall not, directly or indirectly, deal or trade in buying or selling goods, wares, merchandise (stocks), or other commodities whatever, except as herein provided. (*Ibid*, p. 393, § 24.)

**27.** The Auditor of State shall keep a registry of stocks, in which he shall note the date, description, to whom, and by what company issued, the amount thereof and value of the same. He shall receive for his services one dollar for every power of attorney, and the half of one per cent. on all the stocks sold by him, and ten cents per hundred words for all copies of records, and all records made in the performance of the duties herein enjoined, which fees shall be paid him by the proper company. (*Ibid*, § 25.)

**28.** The board of directors of every such company shall, by the first Monday in January of each year, file with the Auditor of State a statement verified by oath and signed by a majority of them, which shall be attested by the secretary, setting forth the amount of capital stock and how the same is invested; the number of policies issued and the amount insured; the nature and kind of risks taken; the losses sustained and the condition of the guarantee fund; and shall publish the same in some paper printed in the State nearest to their principal office in business. (*Ibid*, § 26.)

**29.** If such company fail to report as provided in the preced-



ing section, or shall fail to deposit additional stock securities as herein before provided, when notified so to do by the Auditor of State, or to deposit stocks created by the five per cent. assessment upon dividends, as required by section eighteen, or if such company shall fail to pay losses to the assured upon any policy of insurance issued by them, within sixty days' notice of the same, unless the payment is contested, or the Auditor is properly notified of the insufficiency of cash means to pay such losses as hereinbefore provided; or if the guarantee fund is exhausted or inadequate to meet losses, the Auditor of State shall, in either such case of neglect or failure or cause specified, notify the prosecuting attorney of the circuit court in the county in which the principal office of such company is situate of the facts in relation thereto. (*Ibid*, § 27.)

**30.** Such prosecuting attorney shall file an information in the name of the State of Indiana with the clerk of the circuit court in such county, requiring such company to show cause why their rights of incorporation herein derived shall not be forfeited; and notice of such proceedings shall be given by proper process upon the secretary of such company at least ten days prior to the term of such court, or in his absence upon the president thereof, or if the president be absent, then by publication of notice for three weeks successively before the commencement of such term in any newspaper printed in such county, or if none, then in a newspaper in this State nearest thereto. (*Ibid*, § 28.)

**31.** Upon the hearing of such cause, if the court shall give judgment against the company, such court shall appoint some disinterested person as receiver, who shall give bond with sureties in the penal sum as the court may direct, and thereupon shall immediately take possession of the assets, both real and personal, of such company. (*Ibid*, p. 394, § 29.)

**32.** The Auditor of State shall, upon the proper demand of the receiver, deliver to him the stocks of such company deposited in his office, but the order of such delivery shall be made by the court, and a copy of such order, certified by the clerk thereof, shall be first served upon such Auditor by the receiver. (*Ibid*, § 30.)

**33.** The court shall make such order, from time to time in the premises, not inconsistent with this act, for the conversion of such assets into money, and the distribution thereof, among the creditors of such company, as shall best conduce to justice and right; but such distribution shall conform to the provisions of section seventeen, and the entire assets shall be paid to creditors in the order there directed. (*Ibid*, § 31.)

**34.** The receiver shall make report at each and every term of the said circuit court of his doings in all matters relating to his trust, and shall at the term next following his appointment, report specifically the kind and amount of all assets in his hands, and their probable value. In the final settlement of his account the court shall direct the payment to him of such sums out of the assets as shall be deemed an equitable compensation for his services. (*Ibid*, § 32.)

**35.** Nothing in this act shall confer in any insurance company the right to issue notes similar to bank notes for the purpose of a circulating medium. (*Ibid*, § 33.)

**36.** If any company shall be under liability for losses, to an amount equal to three-fourths of their capital stock, and the president and directors, with knowledge of the same, shall make new or

further insurance, the estates of such assenting directors shall be jointly and severally liable for the amount of any loss which shall take place under such insurance, and whenever the means of such company are exhausted, the estates of stockholders shall, for all losses, be liable to an amount equal to their respective shares of capital stock. (*Ibid*, § 34.)

**37.** No company shall take on any one risk, of whatever nature, a sum exceeding one-tenth part of their capital actually paid in. (*Ibid*, § 35.)

**38.** In case of any loss whereby the capital stock of any company shall be lessened before all the installments are paid in, each stockholder's estate shall be held liable for the installments thus unpaid, at the time of such loss; and no dividend shall hereafter be made, until a sum arising from the profits out of the business of the company, or otherwise contributed, equal to such diminution, shall have been added to the capital. (*Ibid*, § 36.)

**39.** Once in every three years, and oftener if required by the stockholders, the directors shall lay before them at a meeting, an exact and detailed statement of the profits, if any there be, particularizing the losses sustained, and dividends made, and deducting them therefrom. (*Ibid*, p. 395, § 37.)

#### MUTUAL FIRE INSURANCE COMPANIES.

**40.** All mutual fire insurance companies, and all officers by them elected, may exercise the powers, and shall be subject to the duties and liabilities contained in the foregoing sections of this act, except as herein provided. (*Ibid*, § 38.)

**41.** Every such corporation shall annually elect a secretary and not less than five directors, and the directors, in like manner, shall elect a president and vice-president, as heretofore provided in the case of other insurance companies, and shall also elect a treasurer, who shall give bond in such sum as such directors shall order. No one member shall be allowed more than five votes at any election, but absent members may vote by proxy, authorized in writing, and that the officers of the company may have time to examine the list of policy-holders and see who are members, and the number of votes each proxy is entitled to. Such proxy shall set forth the number of policy, and the amount insured by the same, and such policy, [proxy.] or a duplicate of the same, shall be placed on file with the secretary of the company at least ten days previous to the day of any election. (*Ibid*, § 39, as amended by laws of 1865, p. 112.)

**42.** There shall be kept a true record of all the votes of the corporation, and of the directors, and of all the policies issued by the company, and of all assignments of such policies assented to by them, which shall be open to the inspection of any person interested therein. (*Ibid*, § 40.)

**43.** All the officers of such corporations shall hold their offices one year, and until others are chosen and qualified, and vacancies may be filled by a special election. (*Ibid*, § 41.)

**44.** When applications for insurance, in which there shall be taken not less than fifty thousand dollars, in *bona fide* premium notes, by any such company, and proof of the same is furnished to the Auditor of State, the books containing the same, verified by the secretary of the company, and examined and approved by him, as evidence by his certificate, such company may issue policies of insurance and renewals on the same, for a term not exceeding seven

years, against loss or damage by fire, lightning, or tornado, upon any dwelling-house or other buildings, merchandise, or other property, within the United States. (*Ibid*, § 42, as amended by laws of 1865, p. 113.)

**45.** All policies of insurance made by such corporation shall be subscribed by the president, and countersigned by the secretary, and shall be binding upon the corporation as if executed under their corporate seal. (*Ibid*, § 43.)

**46.** Every person insured by any such company shall be a member thereof as long as he shall be so insured. (*Ibid*, § 44.)

**47.** Every person who shall become a member of such company shall, before receiving a policy, deposit, his, her, or their promissory note, as a premium note, and shall pay such further consideration, on or before receiving the policy, as may be agreed upon, and such note shall be payable, in whole or in part, when, on any assessment, the directors may require the same. But should any person insuring in such company so desire, they can pay a definite consideration in lieu of giving a premium note, and in this case, the person so insured shall not be deemed a member, nor entitled to participate in the accumulations of the company, and such company may, if it so desire, take a promissory note for the cash premium, for such length of time, on any policy, as may be agreed upon, and if such promissory note shall remain unpaid, and it becomes due, the company shall not be held responsible for any loss or damage that may take place under any policy for which such note was given. (*Ibid*, § 45, as amended by laws of 1865, p. 113.)

**48.** The funds of every such corporation shall be invested in stocks, or loaned on security, as the directors may order, and shall be appropriated, first, to pay the expenses of the corporation; and then to pay the damages which any member may be entitled to recover in his policy; and if any member shall have a just claim on the corporation, founded on a policy issued by them, exceeding the amount of their then existing funds, exclusive of deposit notes given by the members, the directors shall forthwith assess such sum as may be necessary to pay the same, upon the members, in proportion to the amount of their premiums and deposits severally for seven years; but no member shall be liable to pay in the whole more than the amount of his premium and deposit note. (*Ibid*, § 46.)

**49.** Before the company shall make any assessment on the premium notes for alleged losses, the president and a majority of the directors shall make a statement verified by their oath, exhibiting the amount and nature of the loss sustained; of cash means and premium notes on hand, and the gross amount of the assessment proposed to be levied. (*Ibid*, p. 396, § 47.)

**50.** Whenever sufficient goods or estate of any such corporation can not be found to satisfy an execution issued against them upon a judgment recovered on a policy by them made, and the said corporation have goods or estate to satisfy such execution, and the directors shall neglect or refuse to pay the same, or if the directors shall for thirty days after the rendition of such judgment, refuse or neglect to make such an assessment as they may be authorized to make therefor, and to deliver the same to the treasurer for collection, or fail to apply such assessment, when collected, towards satisfying such execution; then, in either of the cases aforesaid, the directors shall be personally liable for the whole amount of said execution. (*Ibid*, § 48.)

**51.** Whenever the directors or treasurer shall be liable by the provisions of the two previous sections, the judgment creditor or claimant may recover the same in an action at law, in courts having jurisdiction; and any director who shall voluntarily, or by compulsion, pay such judgment or claim, shall have an action at law for a contribution against any other director, for his due proportion thereof. (*Ibid*, § 49.)

**52.** Whenever the treasurer of such corporation shall neglect or refuse to collect any assessments in his hands for that purpose, and to apply the proceeds of the same to discharge the claim for which such assessment was made, he shall, in his [private] capacity, be liable to the complainant for the aggregate amount of such assessment. (*Ibid*, § 50.)

**53.** Every policy made by such corporation shall of itself create a lien on the interest of the person insured, in the building so insured, and in the land upon which the same is situate, for securing the payment of his deposit note, any sums which he may be assessed on account of such policy; *Provided*, The extent of such liability, and the intention of the corporation to rely upon such lien, is expressed in the policy; or upon the alienation of the estate to a *bona fide* purchaser, the lien shall cease, as to all losses which shall thereafter happen, unless the policy is continued in force by consent of the purchaser. (*Ibid*, § 51.)

**54.** If it shall become necessary to resort to such lien for the payment of any sum secured thereby, the treasurer of the corporation shall demand [payment] thereof from the assured, or his legal representatives, and also from any tenant in possession of the insured premises, setting forth in writing the sum due; and, if the same is not paid, the corporation may institute an action at law, and levy any execution issued on such action upon the estate subject to the lien. (*Ibid*, p. 397, § 52.)

**55.** The officer making the levy may sell first the rents and profits for not more than five years, the whole, or any part thereof, at such execution sale, and shall pay over the balance, if any, after satisfying the judgment and costs of execution, to the defendant in such action; but the owner shall have the right to redeem the same within one year thereafter, by tendering to the treasurer of the company the amount of judgment and costs, and interest accruing thereon. (*Ibid*, § 53.)

**56.** The cash accumulations of such company, over and above the losses and expenses, shall be added to its capital and held by the company for the protection of its policy-holders, until such cash accumulation shall reach the sum of one hundred thousand dollars, and after this sum shall have been accumulated, the Board of Directors may, for any additional cash accumulations thereafter, declare a dividend once in five years, *pro rata*, in proportion to the amount paid by the then existing policy-holders, and pay the sum to them on the renewals for five or seven years of their policies then in force in said company. (*Ibid*, § 54, as amended by laws of 1865, p. 114.)

**57.** The directors of such company or a majority of them, shall, in January of each year, make a report, verified by their oath and attested by the secretary of such company, stating in full the amount of their capital stock, of premium notes, and the assessments made thereon, of cash means on hand other than premium notes; of the amount insured, and losses on the same, and generally



of the indebtedness and resources of the company, and file the same with the Auditor of State, and publish a copy of the same in a newspaper printed in that State and nearest their principal office of business. If such company shall fail to make such report, the same proceedings shall be had as in case of other insurance companies. (*Ibid*, § 55.)

**58.** That all special acts of incorporation for insurance companies heretofore enacted, and under which no such company has been organized, nor measures taken to effect an organization under the same, be and they are hereby repealed. (*Ibid*, p. 398, § 57.)

**59.** Mutual insurance companies may be organized for the insurance of the lives or health of persons, or against accident to persons, upon the same conditions and subject to the same duties and liabilities now regulating mutual fire insurance companies, so far as the same may be applicable; *Provided*, That any such company may, at the time of issuing a policy, receive the full amount of premiums agreed upon, in which case the assured shall not be liable to any assessment on account of losses, nor entitled to participate in the profits accruing to such companies. *And provided further*, That policies issued may be for the life of the person or persons applying for insurance, or for any determinate period, and upon such amount or value as may be agreed upon by the parties and those life insurance companies organized under said law shall be perpetual. (*Revised Statutes*, vol. 3, 1870, p. 311, § 1.)

**60.** No company organized under and by virtue of this act shall insure property of any kind or take any fire risks. (*Ibid*, § 2.)

### FOREIGN INSURANCE COMPANIES.

**61.** It shall not be lawful for any agent or agents of any insurance company incorporated by any other State than the State of Indiana, directly or indirectly, to take risks or transact any business of insurance in this State, without first producing a certificate of authority from the Auditor of State; and before obtaining such certificate, such agent, or agents, shall furnish the said Auditor with a statement, under oath, of the president or secretary of the company for which he or they may act, which statement shall show:

*First.*—The name and locality of the company.

*Second.*—The amount of its capital stock.

*Third.*—The amount of its capital stock paid up.

*Fourth.*—The assets of the company, including:

1. The amount of cash on hand, and in the hands of agents or other persons;
2. The real estate unincumbered;
3. The bonds owned by the company, and how they are secured, with the rate of interest thereon;
4. Debts to the company secured by mortgage;
5. Debts otherwise secured;
6. Debts for premiums;
7. All other securities.

*Fifth.*—The amount of liabilities due, or not due, to banks or other creditors, by the company.

*Sixth.*—Losses adjusted and due.

*Seventh.*—Losses adjusted and not due.

*Eighth.*—Losses unadjusted.

*Ninth.*—Losses in suspense, waiting for further proof.

*Tenth.*—All other claims against the company.

*Eleventh.*—The greatest amount insured in any one risk.

*Twelfth.*—The greatest amount allowed by the rules of the company to be insured in any one city, town, or village.

*Thirteenth.*—The greatest amount allowed to be insured in any one block.

*Fourteenth.*—The act of incorporation of such company; which statement shall be filed in the office of said Auditor, together with a written instrument, under the seal of the company, signed by the president and the secretary, authorizing such agent to acknowledge service of process, for and in behalf of such company; consenting that service of process upon such agent shall be taken and held to be as valid as if served upon the company according to the laws of this State, or any other State, and waiving all claim of error by reason of such service. And no insurance company, or agent, or agents of any insurance company, incorporated by any other State, shall transact any business of insurance in this State, unless such company is possessed of at least one hundred thousand dollars of actual capital, invested in the stocks, or bonds, of some one or more of the States of this Union, or of the United States, at the current market value thereof at the date of such statement, or in bonds or mortgages of real estate worth double the amount for which the same is mortgaged, and free from any prior incumbrance; and upon the filing of the aforesaid statement and instrument with the Auditor of State, and furnishing him with satisfactory evidence of such investment, as aforesaid, it shall be the duty of said Auditor to issue a certificate thereof, with authority to transact the business of insurance, to the agent or agents applying for the same; and said statement, instrument, and evidence shall be renewed semi-annually in the months of January and July of each year; and the Auditor of State, on being satisfied that the capital, securities, and investments remain secure, as at first, shall furnish a renewal of certificate as aforesaid, and the agent or agents obtaining such certificates, shall file the same, together with a certified copy of the statement on which it was obtained, in the office of the clerk of the circuit court of the county in which such agency is established, both of which documents shall be carefully preserved for public inspection, by said clerk; *Provided*, That the provisions of this section shall not be construed to extend to, include, or embrace horse insurance, and detective companies insuring against thieves. (*Revised Statutes*, vol. 3, 1870, p. 312, § 1.)

**62.** It shall be unlawful for any agent, or agents, of any insurance company, incorporated by any government foreign to the United States, to transact any business of insurance in this State, without procuring a certificate of authority from the Auditor of State; such agent, or agents, having first filed, in the office of said Auditor, a statement, under the oath of the president, secretary, or secretary resident in the United States, of such company, setting forth the charter, or act of incorporation of the company, and the matters required to be specified by the first section of this act, and furnished evidence to the satisfaction of the Auditor of State, that such company has invested in the stocks or bonds of some one or more of the States of this Union, or of the United States, the sum of one hundred thousand dollars, estimated at the current market value thereof at the date of such statement, and that such stocks

or bonds are held within the United States by a citizen or citizens thereof, as the agent or agents, trustee or trustees of such company, and are not pledged or otherwise incumbered, but are held and remain for the protection and benefit of the policy-holders of such company; and the said agent or agents of such company, filing said statement, and furnishing evidences of investment, as aforesaid, shall be entitled to a certificate of authority, in like manner as is provided for in the first section of this act. (*Ibid*, p. 313, § 2.)

**63.** The Auditor of State shall charge and collect for the State of Indiana the sum of five dollars in each and every case for the examination of the statement and investigation of evidence of investment, and two dollars for each certificate of authority issued under the provisions of this act, to be paid by the agent or agents applying for the same, and the Auditor of State shall, on the first Tuesday in April, June, September, and December, of each year, make to the Treasurer of State a sworn statement of the number of statements filed in his office, and of the number of certificates issued under the provisions of this act, and of the entire receipts therefor since his last report, and shall pay over to the Treasurer, to go into the general fund of the State, the entire amount of such receipts, less twenty-five per cent. thereon, which he may retain for his services in collecting the same. (*Ibid*, § 3, as amended by laws of Special Session, 1875, p. 51, § 1.)

**64.** Whenever any loss may occur, of any property insured by any company authorized to take risks under this act, it shall be the duty of the agent by whom the insurance was made, to retain in his possession all moneys belonging to such company, which may then be or may thereafter come into his possession, until such loss is adjusted and paid; *Provided*, That if suit shall be commenced by the party insured, against such company, the agent may deposit in court double the amount mentioned in the policy, to abide the event of the suit; or if the party shall not commence suit within ninety days after the agent shall have given written notice to such party that the loss will not be paid, the agent may thereafter [pay over] to persons entitled, the moneys of said company; and if any person insured by such company, meeting with a loss, shall notify any other agent of such company thereof, it shall be the duty of such agent to retain all moneys belonging to such company, which may then be, or may thereafter come into his possession, as hereinbefore required of the agent with whom the insurance was effected. (*Ibid*, § 4)

**65.** The copies of all papers required by this act to be deposited in the office of the Auditor of State, certified under the hand of such Auditor to be true and correct copies of such papers, shall be received as evidence in all courts and places, in the same manner, and have the same force and effect, as the originals would have if produced. (*Ibid*, p. 315, § 5.)

**66.** No such insurance company shall insert any condition, in any policy hereafter issued, requiring the insured to give notice forthwith, or within the period of time less than five days, of the loss of the insured property; nor shall any condition be inserted in such policy, requiring the insured to procure the certificate of the nearest justice of the peace, mayor, judge, clergyman, or other official, or person, of such loss, or the amount of such loss, and any provision or condition contrary to the provisions of this section, or any condition in said policy, inserted to avoid the provisions of this

section, shall be void, and no condition or agreement, not to sue for a period less than three years, shall be valid. (*Ibid*, § 6.)

**67.** Any person or persons violating the provisions of this act, shall, upon conviction thereof, in any court of competent jurisdiction, be fined, in any sum not exceeding one thousand dollars, or imprisonment in the county jail not more than thirty days, or both, at the discretion of the court. Violations of the provisions of this act may be prosecuted by information filed by the prosecuting attorney of the proper county, or by indictment of the grand jury. (*Ibid*, § 7.)

### TAXATION.

**68.** Every insurance company not organized under the laws of this State, and doing business therein, shall, in the months of January and July of each year, report to the Auditor of State, under oath of the president and secretary, the gross amount of all receipts received in the State of Indiana, on account of insurance premiums for the six months last preceding, ending on the last days of December and June of each year, and shall, at the time of making such report, pay into the treasury of the State the sum of three dollars on every one hundred dollars of such receipt, less losses actually paid within the State. (*Laws of 1873*, p. 208, § 8.)

**69.** Any such insurance company failing or refusing for more than thirty days to render an accurate account of its premium receipts, as in the preceding sections provided, and pay the required tax thereon, shall forfeit one hundred dollars for each additional day such report and payment shall be delayed, to be recovered in the name of the State of Indiana, on the relation of the Auditor of State, in any court of competent jurisdiction, and it shall be the duty of the Auditor of State to revoke all authority of any such defaulting company to do business within this State. (*Ibid*, § 9.)

**70.** Any insurance company organized under the laws of this State may reinsure, by and with the consent of the insured, all their outstanding risks in any joint stock insurance company authorized to transact the business of insurance in Indiana, and such policy and contract of reinsurance shall be as binding upon the company making the same, and its liability to the party whose property is insured shall be the same as if the original policies had been issued by such company. (*Revised Statutes*, vol. 3, 1870, p. 311, § 1.)

**71.** Any such insurance company having reinsured all of its outstanding risks, or canceled the same and returned the unearned premiums thereon to the party insured, to the satisfaction and approval of the Auditor of State, and having filed in the said Auditor's office a sworn statement of a majority of the directors of such company that such company has fully paid and satisfied all claims, debts, and demands, of whatsoever character, against it, the Auditor of State shall deliver to such company all securities belonging to such company and on deposit in his office, and a certificate that such company has complied with the provisions of this act. (*Ibid*, p. 312, § 2.)

**72.** It shall not be lawful for any such company, after having complied with the provisions of this act, to transact the business of insurance. (*Ibid*, § 3.)



## FRAUD AND FALSE SWEARING.

**73.** Any person who shall present, or cause to be presented, any false or fraudulent claims, or any proof in support of any such claim, upon any contract of insurance for the payment of any loss, or who shall prepare, make, or subscribe any account, certificate, survey, affidavit, proof of loss, or other book, paper, or writing, with intent to present or use the same, or allow it to be presented or used in support of any such claim, shall be deemed guilty of a felony, and upon conviction thereof in any court having jurisdiction thereof, shall be punished by imprisonment in the State prison for a term not exceeding three years, or by a fine not exceeding one thousand dollars, or both. (*Revised Statutes, vol. 3, 1870, p. 316, § 2.*)

## ARSON AND INCENDIARISM.

**74.** Every person who shall willfully and maliciously set fire to the dwelling-house, out-house, barn, stable, boat, water craft, mill, mill-house, distillery, manufactory, mechanic's or artificer's shop, store-house, or room occupied as a shop or office for professional business, or building of any kind, or printing office of another, or any public bridge, court-house, jail, market-house, church, or meeting-house, seminary or college edifice, or building thereto belonging, or to any cord-wood in piles, or ricks or stacks or shocks of grain, or hay, or any fence, or growing grain, of the value of twenty dollars; or to any house, shop, wood-house, water station, or other public building connected with any railroad, or shall in like manner set fire to any bridge, or any part of the structure of any railroad; and every person who shall set fire to any building or structure, whether finished or unfinished, whatever, or any goods, wares, merchandise, or other chattels which shall be, at the time, insured against loss or damage by fire, with intent to defraud the insurer, whether such person be the owner of the property burnt or not, shall be deemed guilty of arson and, upon conviction, be fined not exceeding double the value of the property destroyed, and be imprisoned in the State prison not less than one nor more than ten years; and should the life of any person be lost thereby, such offender shall be deemed guilty of murder in the first degree, and suffer death, or imprisonment in the State prison during life. (*Revised Statutes, 1870, p. 255.*)

**75.** Every person who shall willfully burn, or in any other manner injure or destroy any property whatever, which is at the time insured against loss or damage by fire or any other casualty, with intent to defraud or prejudice the insurer, whether the same be the property or in possession of such person or of any other, shall be deemed guilty of a felony, and upon conviction thereof, in any court having jurisdiction thereof, shall be punished by imprisonment in the State prison for a term not exceeding fourteen years and not less than one year, and by fine not to exceed double the amount of property so destroyed. (*Revised Statutes, vol. 3, 1870, p. 315, § 1.*)

**76.** Every president, director, cashier, secretary, treasurer, teller, clerk, bookkeeper, agent, or other employe of any bank, banking company, corporation, or association, and every president,

director, secretary, treasurer, conductor, book-keeper, clerk, agent, or other employe of any railroad company, corporation, or association, or of any insurance company, turnpike or plank road company, or of any telegraph company, or association, and every clerk, treasurer, cashier, book-keeper, or other person in the employment of any merchant, trader, manufacturer, or person, company, or association, of persons engaged in any business whatever, who, while in such employment as aforesaid, shall purloin, secrete, or in any way whatever fraudulently appropriate to his or her own use, or to the use of others, or knowingly permit any other person to take, purloin, secrete, or in any way to appropriate to his or her own use, or to the use of others, any of the moneys, coins, bills, notes, credits, choses in action, or other property or article of value belonging to or deposited with any such bank, banking company, or association, or any such railroad company, corporation, or association, or any such insurance company, telegraph company, turnpike or plank road company, or association, or any such merchant, trader, manufacturer, or person, company, or association of persons engaged in business as aforesaid, in whose employment he or she may be, shall be deemed guilty of embezzlement, and upon conviction thereof and presentment or indictment, shall be fined in any sum not less than one nor more than five hundred dollars, and be imprisoned at hard labor in the State prison not less than two nor more than twenty years. (*Revised Statutes*, 1870, p. 256.)

**77.** For General Provisions relating to Corporations see *Revised Statutes*, 1862, pp. 267-272.

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# INSURANCE STATUTES OF IOWA.

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## CONSTITUTIONAL PROVISIONS CONCERNING CORPORATIONS.

1. No corporation shall be created by special laws, but the General Assembly shall provide by general laws for the organization of all corporations hereafter to be created, except as hereinafter provided. (*Art. 8, § 1.*)

2. The property of all corporations for pecuniary profit shall be subject to taxation, the same as that of individuals. (*Art. 8, § 2.*)

3. Subject to the provisions of this article, the General Assembly shall have power to amend or repeal all laws for the organization or creation of corporations, or granting of special or exclusive privileges or immunities, by a vote of two-thirds of each branch of the General Assembly; and no exclusive privileges, except as in this article provided, shall ever be granted. (*Art. 8, § 12.*)

## FIRE INSURANCE COMPANIES.

4. When any number of persons associate themselves together for the purpose of forming an insurance company, or for any other purpose than life insurance, under the provisions of chapter one of this title, they shall publish a notice of such intention, once in each week, for four weeks, in some public newspaper in the county in which such insurance company is proposed to be located; and they shall also make a certificate, under their hands, specifying the name assumed by such company, and by which it shall be known, the object for which said company shall be formed, the amount of its capital stock, and the place where the principal office of said company shall be located; which certificate shall be acknowledged before and certified by some notary public or clerk of a court of record, and forwarded to the Auditor of State, who shall submit the same to the Attorney-General for examination, and if it shall be found by the Attorney-General to be in accordance with the provisions of this chapter, and not in conflict with the constitution and laws of the United States, and of this State, he shall make a certificate of the fact and return it to the Auditor of State, who shall reject the name or title applied for by any company when he shall deem the same too similar to any one already appropriated by any other company, or likely to mislead the public. (*Code, 1873, p. 193, § 1122.*)

5. When the certificate of said company shall have received the approval of the Attorney-General and Auditor of State, the company shall cause the same to be recorded as required by law for recording articles of incorporation; and said persons, when incorporated, and, having in all respects complied with the provisions of this chapter, are hereby authorized to carry on the business of insurance as named in such certificate of incorporation, and by the name and style provided therein, and shall be deemed a body cor-

porate with succession; they and their associates, successors, and assigns, to have the same general corporate powers, and be subject to all the obligations and restrictions of said chapter one of this title except as may be herein otherwise provided. (*Ibid*, p. 194, § 1123.)

6. No joint stock company shall be incorporated under the provisions of this chapter, with a smaller capital than fifty thousand dollars, or a larger one than one million dollars, as may be specified in the certificate of incorporation, which stock shall be divided into shares of one hundred dollars each, of which capital not less than twenty-five per cent., and in no case less than twenty-five thousand dollars shall be paid up in cash. The balance of the capital of said company may consist of the bonds or notes of the stockholders; nor shall any company, on the plan of mutual insurance, commence business in this State until agreements have been entered into for insurance with at least two hundred applicants, the premiums upon which shall amount to not less than twenty-five thousand dollars; of which at least five thousand dollars shall have been paid in actual cash, and for the remainder of which notes of solvent parties, founded upon actual application for insurance made in good faith, shall have been received. No one of the notes received as aforesaid, shall amount to more than five hundred dollars; and no two thereof shall be given for the same risk, or made by the same person or firm, except where the whole amount of such notes does not exceed the sum of five hundred dollars; nor shall any note be regarded or represented as capital stock, unless a policy be issued upon the same within thirty days after the organization of the company taking the same, upon a risk that shall be for no shorter period than twelve months. Each of said notes shall be payable, in whole or in part, at any time when the directors shall deem the same requisite for the payment of losses by fire or inland navigation, and such incidental expenses as may be necessary for transacting the business of said company. And no note shall be accepted as part of such capital stock, unless the same shall be accompanied by a certificate of a justice of the peace, notary public, or clerk of the district court of the county in which the person executing such note shall reside, that the person making the same is, in his opinion, pecuniarily good and responsible for the same, in property not exempt from execution by the laws of their State; and no such note shall be surrendered while the policy for which it was given continues in force. (*Ibid*, § 1124.)

7. Having published the notice, and filed the publisher's affidavit of the publication thereof with the Auditor of State, together with the certificate required by section eleven hundred and twenty-two of this chapter, the persons named in the certificate of incorporation, or a majority of them, shall be commissioners to open books for the subscription of stock to the company, at such times and places as to them may seem convenient and proper, and shall keep the same open until the full amount specified in the certificate is subscribed; or, in case the business of said company is proposed to be conducted on the plan of mutual insurance, then to open books to receive propositions and enter into agreements in the manner and to the extent specified in section eleven hundred and twenty-four of this chapter. (*Ibid*, p. 195, § 1125.)

8. The affairs of any company organized under the provisions of this chapter shall be managed by not more than twenty-one, nor by less than five directors, all of whom shall be stockholders.

Within thirty days after the subscription book shall have been filled, a majority of the subscribers shall hold a meeting for the election of directors—each share entitling the holder thereof to one vote; and the directors then elected shall continue in office until their successors have been duly chosen and have accepted the trust. (*Ibid*, § 1126.)

9. The annual meetings for the election of directors shall be holden during the month of January, at such time as the by-laws of the company may direct; *Provided, however*, That if for any cause the stockholders shall fail to elect at any annual meeting, then they may hold a special meeting some day subsequent thereto for that purpose, by giving thirty days' notice thereof in some newspaper in general circulation in the county in which the principal office of the company shall be located, and the directors chosen at any such annual or special meeting, shall continue in office until the next annual meeting and until their successors, duly elected, shall have accepted. (*Ibid*, § 1127.)

10. The directors shall choose, by ballot, a president from their own number, and shall fill all vacancies which shall arise in the Board or in the presidency thereof; and the Board of Directors thus constituted, or a majority of them, when convened at the office of the company, shall be competent to exercise all the powers vested in them by this chapter. (*Ibid*, p. 196, § 1128.)

11. The directors of any such company shall have power to appoint a secretary, and any other officers or agents necessary for transacting the business of the company, paying such salaries, and taking such securities as they may deem reasonable; they may ordain and establish such by-laws and regulations, not inconsistent with this chapter, or with the constitution and laws of the United States and of this State, as shall appear to them necessary for regulating and conducting the business of the company; and they shall keep full and correct entries of their transactions, which shall, at all times, be open to the inspection of the stockholders, and to the inspection of persons invested by law with the right thereof. (*Ibid*, § 1129.)

12. It shall be lawful for any insurance company organized under this chapter to invest its capital and the funds accumulated in the course of its business, or any part thereof, in bonds and mortgages on unencumbered real estate within the State of Iowa, worth double the sum loaned thereon, exclusive of buildings, unless such buildings are insured in some responsible company, and the policy transferred to said company, and also in stocks of this State, or stocks or treasury notes of the United States, in the stocks or bonds of any county or incorporated city in this State authorized to be issued by the legislature of this State; and to lend the same, or any part thereof, on the security of such stocks or bonds, or treasury notes, or upon bonds and mortgages as aforesaid, and not otherwise; and to change and reinvest the same in like securities as occasion may, from time to time, require; but any surplus money over and above the paid-up capital stock of any such company organized under this chapter, or incorporated under any law of this State, may be invested in or loaned upon the pledge of the public stock or bonds of the United States, or any one of the States, or the stocks, bonds, or other evidences of indebtedness of any solvent, dividend-paying institutions incorporated under the laws of this State or of the United States, except their own stock; if the current

market value of such stock, bonds, or other evidences of indebtedness, shall be at all times, during the continuance of such loans, at least ten per cent. more than the sum loaned thereon. (*Ibid*, § 1139.)

**13.** Upon receiving notification that the requirements of the preceding sections have been complied with, the Auditor of State shall make an examination, or cause one to be made by some disinterested person officially appointed by him for that purpose; and if it shall be found that the capital herein required of the company named, according to the nature of the business proposed to be transacted by such company, has been paid in and is possessed by it in money, or in such stock, notes, bonds, and mortgages as are required by sections eleven hundred and twenty-four and eleven hundred and thirty of this chapter, then he shall so certify; and if the examination be made by any other than the Auditor, then the finding shall be certified under oath; or, if it is proposed to be a mutual insurance company, such certificate shall be to the effect that it has received and is in actual possession of the capital, premiums, or actual engagements of insurance or other securities, as the case may be, to the extent and value required by sections eleven hundred and twenty-four and eleven hundred and thirty of this chapter. The name and residence of the maker of each premium note forming part of the capital of any such proposed mutual insurance company, and the amount of such note, shall be returned to the Auditor. The corporators or officers of any such company, or proposed company, shall be required to certify, under oath, to the Auditor of State, that the capital exhibited to the person making the examination directed in this section, was, actually and in good faith, the property of the company so examined. The certificates above contemplated shall be filed in the office of said Auditor, who shall thereupon deliver to such company a certified copy of the same, with his written permission for them to commence the business proposed in their written certificate of incorporation, which, being recorded by the Recorder of the county in which the company is to be located, in a book prepared by him for the purpose, shall be their authority to commence business and issue policies; and such certified copy of said certificates may be used in evidence for or against said company with the same effect as the originals. (*Ibid*, § 1131.)

**14.** It shall be lawful for any company organized under this chapter, or doing business in this State:

1. To insure houses, buildings, and all other kinds of property against loss or damage by fire or other casualty, and to make all kinds of insurance on goods, merchandise, or other property in the course of transportation, whether on land or on water, or any vessel or boat, wherever the same may be.

2. To make insurance on the health of individuals, and against the personal injury, disablement, and death, resulting from traveling, or general accidents by land or water.

3. To insure the fidelity of persons holding places of private or public trust.

4. To receive on deposit and insure the safe keeping of books, papers, moneys, stocks, bonds, and all kinds of personal property.

5. To insure horses, cattle, and other live stock against loss, or damage by accident, theft, or any unknown or contingent event whatever which may be the subject of legal insurance; to



lend money on bottomry or respondentia, and to cause itself to be insured against any loss or risk it may have incurred in the course of its business, and upon the interest which it may have in any property, by means of any loan which it may have made on mortgage, bottomry, or respondentia, and generally to do and perform all other matters and things proper to promote these objects.

But no company shall be organized to issue policies of insurance for more than one of the above five mentioned purposes, and no company that shall have been organized for either one of said purposes, shall issue policies of insurance for any other; and no company organized under this chapter, or transacting business in this State, shall expose itself to loss on any one risk or hazard to an amount exceeding ten per cent. on its paid-up capital, unless the excess shall be reinsured by the same in some other good and reliable company. But the restrictions as to the amount of risk any company shall assume, shall not apply to any companies organized to guarantee the fidelity of persons in places of public or private trust, nor to companies that receive on deposit and guarantee the safe keeping of books, papers, moneys, and other personal property. (*Ibid*, p. 197, § 1132.)

**15.** All policies or contracts of insurance made or entered into by the company, may be made either with or without the seal of said company; but said policies shall be subscribed by the president, or such other officers as may be designated by the directors for that purpose, and shall be attested by the secretary thereof. (*Ibid*, p. 198, § 1133.)

**16.** Transfers of stock may be made by any stockholder, or his legal representative, subject to such restrictions as the directors shall establish in their by-laws, except as hereinafter provided. (*Ibid*, § 1134.)

**17.** Whenever any company organized under this chapter, with less than the maximum capital limited in section eleven hundred and twenty-four hereof, shall, in the opinion of the directors thereof, require an increased amount of capital, they shall, if authorized by the holders of a majority of the stock to do so, file with the Auditor of State a certificate setting forth the amount of such desired increase, not exceeding said maximum, and thereafter such company shall be entitled to have the increased amount of capital fixed by said certificate, and the examination of securities composing the capital stock thus increased, shall be made in the same manner as provided in section eleven hundred and thirty-one of this chapter for the capital stock first paid in. (*Ibid*, § 1135.)

**18.** The directors, trustees, or managers of any insurance company organized under this chapter, or incorporated under any law of this State, shall not make any dividends, except from the surplus profit arising from their business; and, in estimating such profits, there shall be reserved therefrom a sum equal to forty per cent. of the amount received as premiums on unexpired risks and policies, which amount, so reserved, is hereby declared to be unearned premiums; and there shall also be reserved all sums due the corporation on bonds and mortgages, bonds, stocks, and book account, of which no part of the principal or interest thereon has been paid during the year preceding such estimate of profits, and upon which suit for foreclosure or collection has not been commenced, or which, after judgment has been obtained thereon, shall have remained

more than two years unsatisfied, and on which interest shall not have been paid; and, in case of any such judgment, the interest due or accrued thereon, and remaining unpaid, shall also be reserved. Any dividends made contrary to these provisions shall subject the company making it to a forfeiture of their charter. (*Ibid*, § 1136.)

**19.** No company organized under this chapter shall purchase, hold, or convey any real estate, save for the purposes and in the manner herein set forth:

1. Such as shall be requisite for its convenient accommodation in the transaction of its business.

2. Such as shall have been mortgaged to it in good faith by way of security for loans previously contracted, or for money due.

3. Such as shall have been conveyed to it in satisfaction of debts previously contracted in the legitimate business of the company, or for money due.

4. Such as shall have been purchased at sales upon judgments, decrees, or mortgages obtained or made for such debt; and it shall not be lawful for any such company to purchase, hold or convey real estate in any other case, or for any other purpose, or acquired in any other manner, except that it may convey real estate which shall be found in the course of its business not necessary for its convenient accommodation in the transaction thereof; and all such last mentioned real estate shall be sold and conveyed within three years after the same has been deemed by the Auditor of State unnecessary for such accommodation, unless the company shall procure a certificate from the said Auditor that the interest of said company will materially suffer by a forced sale, in which event the sale may be postponed for such a period as the said Auditor may direct in such certificate. (*Ibid*, p. 199, § 1137.)

**20.** All notes deposited with any mutual insurance company at the time of its organization, as provided in section eleven hundred and twenty-four hereof, shall remain as security for all losses and claims until the accumulation of the profits invested, as required by section eleven hundred and thirty of this chapter, shall equal the amount of cash capital required to be possessed by stock companies organized under this chapter, the liability of each note decreasing proportionately as the profits are accumulating; but any note which may have been deposited with any mutual insurance company subsequent to its organization, in addition to the cash premiums on any insurance effected with such company, may, at the expiration of the time of such insurance, or upon the cancellation by the company of the policy, be relinquished and given up to the maker thereof, or his legal representatives, upon his paying his proportion of losses and expenses which may have accrued thereon during such term. The directors or trustees of any such company shall have the right to determine the amount of the note to be given, in addition to the cash premium, by any person insured in such company; and every person effecting insurance in any mutual company, and also his heirs, executors, administrators, and assigns, continuing to be so insured, shall thereby become members of said company during the period of insurance, and shall be bound to pay for losses, and such necessary expenses as aforesaid, accruing to said company in proportion to his or their deposit note. But any person insured in any mutual company, except in the case of notes required by this chap-

ter to be deposited at the time of its organization, may, at any time return his policy for cancellation, and, upon payment of the amount due at such time upon his premium note shall be discharged from further liability thereon. (*Ibid*, § 1138.)

**21.** The directors shall, as often as they deem necessary, after receiving notice of any loss or damage, settle and determine the sums to be paid by the several members thereof as their respective portion of such loss, and publish the same in such manner as they shall deem proper, or the by-laws shall have prescribed; but the sum to be paid by each member shall always be in proportion to the original amount of his deposit note, and shall be paid to the officers of the company within thirty days after the publication of said notice; and if any member shall, for the space of thirty days after personal demand, or by letter, for payment shall have been made, neglect or refuse to pay the sum assessed upon him as his proportion of any loss aforesaid, the directors may sue for and recover the whole amount of his deposit note, with costs of suit; but execution shall issue for assessments and costs as they accrue only, and every such execution shall be accompanied by a list of losses for which the assessment was made. If the whole amount of deposit notes shall be insufficient to pay the loss occasioned, the sufferers insured by said company shall receive, toward making good their respective losses, a proportionate share of the whole amount of said notes, according to the sums to them respectively insured; but no member shall ever be required to pay for any loss more than the whole amount of his deposit note. (*Ibid*, p. 200, § 1139.)

**22.** Every insurance company hereafter organized as provided in this chapter, shall, if it be a mutual company, embody the word "mutual" in its title, which shall appear upon the first page of every policy and renewal receipt; and every company doing business as a cash stock company, shall upon the face of its policies express in some suitable manner that such policies were issued by stock companies. (*Ibid*, § 1140.)

**23.** The president, or the vice-president and secretary, of each company organized under this chapter, or incorporated under any law of this State, or doing business in this State, shall annually, on the first day of January of each year, or within thirty days thereafter, prepare, under oath, and deposit in the office of the Auditor of State, a full, true, and complete statement of the condition of such company on the last day of the month preceding that in which such statement is filed, which last statement shall exhibit the following items and facts in the following form, to wit:

*First.*—The amount of capital stock of the company.

*Second.*—The name of the officers.

*Third.*—The name of the company, and where located.

*Fourth.*—The amount of its capital stock paid up.

*Fifth.*—The property or assets held by the company, specifying:

1. The value, as nearly as may be, of the real estate owned by such company;

2. The amount of cash on hand and deposited in banks to the credit of the company, and in what bank the same is deposited;

3. The amount of cash in the hands of agents, and in the course of transmission;

4. The amount of loans secured by first mortgage on real estate, with the rate of interest thereon;

5. The amount of all other bonds and loans, and how secured, with the rate of interest thereon;

6. The amount due the company on which judgment has been obtained;

7. The amount of stocks of this State, of the United States, of any incorporated city of this State, and of any other stocks owned by the company, specifying the amount, number of shares, and par and market value of each kind of stock;

8. The amount of stock held by such company as collateral security for loans, with amount loaned on each kind of stock, its par and market value;

9. The amount of assessments on stock and premium notes, paid and unpaid;

10. The amount of interest actually due and unpaid;

11. All other securities and their value;

12. The amount for which premium notes have been given on which policies have been issued.

*Sixth.*—Liabilities of such company, specifying:

1. The losses adjusted and due;

2. The losses adjusted and not due;

3. Losses unadjusted;

4. Losses in suspense and the cause thereof;

5. Losses resisted and in litigation;

6. Dividends, either in script or cash, specifying amount of each, declared but not due;

7. Dividends declared and due;

8. The amount required to reinsure all outstanding risks, on the basis of forty per cent. of the premium on all unexpired risks;

9. The amount due banks or other creditors;

10. The amount of money borrowed and the security therefor;

11. All other claims against the company.

*Seventh.*—The income of the company during the previous year, specifying:

1. The amount received for premiums, exclusive of premium notes;

2. The amount of premium notes received;

3. The amount received for interest;

4. The amount received for assessments, or calls on stock notes, or premium notes;

5. The amount received from all other sources;

*Eighth.*—The expenditures during the preceding year, specifying:

1. The amount of losses paid during said term, stating how much of the same accrued prior, and how much subsequent to the date of the preceding statement, and the amount at which losses were estimated in such statement;

2. The amount paid for dividends;

3. The amount paid for commissions, salaries, expenses, and other charges of agents, clerks, and other employes;

4. The amount paid for salaries, fees, and other charges of officers and directors;

5. The amount paid for local, State, national, internal revenue, and other taxes and duties;

6. The amount paid for all other expenses, expenditures, including printing, stationery, rents, furniture, etc.

*Ninth.*—The largest amount insured in any one risk.



*Tenth.*—The amount of risks written during the year then ending.

*Eleventh.*—The amount of risks in force, having less than one year to run.

*Twelfth.*—The amount of risks in force, having more than one, and not over three years to run.

*Thirteenth.*—The amount of risks having more than three years to run.

*Fourteenth.*—The following question must be answered, viz.: Are dividends declared on premiums received for risks not terminated?

*Fifteenth.*—Each accident insurance company, or company insuring against accidents in this State, shall keep a register of tickets sold by its officers or agents, which register shall show the name and residence of the person insured, the amount of such insurance, the date of issue of such ticket, and the time the same will remain in force, and every such company shall file in the office of the Auditor of State, in January in each year, a report, sworn to by the president or secretary of the company, showing the above items of the business of such company during the preceding year, and the Auditor of State shall withhold the certificate of authority from any such company neglecting or failing to comply with the provisions of this section. (*Ibid*, § 1141.)

**24.** The Auditor of State is hereby authorized and empowered to address any inquiries to any insurance company in relation to its doings and condition, or any other matter connected with its transactions, which he may deem necessary for the public good, or for a proper discharge of his duties, and any company so addressed shall promptly reply in writing thereto. (*Ibid*, p. 202. § 1142.)

**25.** The statement of any company, the capital of which is composed, in whole or in part, of notes, shall, in addition to the foregoing, exhibit the amount of notes originally forming the capital, and also what proportion of said notes is still held by such company and considered capital. (*Ibid*, § 1143.)

**26.** No insurance company, association, or partnership, organized or associated for any of the purposes specified in this chapter, incorporated by, or organized under the laws of any other State or any foreign government, shall, directly or indirectly, take risks or transact any business of insurance in this State, unless possessed of two hundred thousand dollars of actual paid-up capital, exclusive of any assets of any such company deposited in any other States or Territories, for the special benefit or security of the insured therein; and any such company desiring to transact any such business as aforesaid, by an agent or agents in this State, shall file with the Auditor of State a written instrument, duly signed and sealed, authorizing any agent or agents of such company in this State to acknowledge service of process for and in behalf of such company in this State, consenting that service of process, original, mean, or final, upon any such agent or agents, shall be taken and held as valid as if served upon the company according to the laws of this or any other State, and waiving all claim or right of error, by reason of such acknowledgment or service; and also a certified copy of their charter or deed of settlement, together with a statement, under oath, of the president or vice-president, or other chief officer, and the secretary of the company for which they may act, stating the name of the company and the place where located, the amount of its capital, with a detailed statement of the facts and

items required from companies organized under the laws of this State, as per section eleven hundred and forty-one hereof; also a copy of the last annual report, if any, made under any law of the State by which such company was incorporated; and no agent shall be allowed to transact business for any company whose capital is impaired by liabilities as stated in section eleven hundred and forty-one of this chapter, to the extent of twenty per cent. thereof, while such deficiency shall continue. (*Ibid*, p. 203, § 1144.)

**27.** No agent shall act for any insurance company referred to herein, directly or indirectly, in taking risks or transacting business of insurance in this State, without procuring from the Auditor of State a certificate of authority, stating that such company has complied with all the requisitions of this chapter. (*Ibid*, § 1145.)

**28.** The statements and evidences of investment required of foreign companies as above shall be renewed annually, in such manner and form as required hereby and as said Auditor may direct, with any additional statement of the amount of the losses incurred or premiums received in this State during the preceding period, so long as such agency continues. And the said Auditor, on being satisfied that the capital, securities, and investments remain secure, as hereinbefore provided, shall furnish a renewal of his certificates as aforesaid. All notes taken for policies of insurance in any company doing business in this State shall state upon their face that they have been taken for insurance, and shall not be collectable unless the company and its agents have fully complied with the laws of this State relative to insurance. (*Ibid*, § 1146.)

**29.** Every insurance company organized under the laws of, or doing business in, this State, shall conform to all the provisions of this chapter applicable thereto, and, when necessary, any existing company shall change its charter and by-laws, so as to conform hereto, by a vote of a majority of its board of directors; and any president, secretary, or other officer of any company organized under the laws of Iowa, or any officer or person doing, or attempting to do, business in this State for any insurance company organized without this State, failing to comply with any of the requirements of this chapter, or violating any of the provisions thereof, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in a sum not exceeding one thousand dollars, and be imprisoned in the county jail for a period not less than thirty days nor more than six months. (*Ibid*, p. 204, § 1147.)

**30.** Every agent of any insurance company shall, in all advertisements of such agency, publish the location of the company, giving the name of the city, town, or village in which the company is located, and the State or government under the laws of which it is organized. The term agent, used in the foregoing sections, shall include any other person who shall, in any manner, directly or indirectly, transact the insurance business of any insurance company not incorporated by the laws of this State. The provisions of the foregoing sections relative to foreign companies shall apply to all such companies, partnerships, associations, or individuals, whether incorporated or not. (*Ibid*, § 1148.)

**31.** The Auditor of State shall, whenever he deems it expedient so to do, appoint one or more persons, not officers, agents, or stockholders of any insurance company doing business in this State, to examine into the affairs and condition of any insurance company incorporated or doing business in this State, or to make such ex-

amination himself; and the officers or agents of such company or companies shall cause their books to be opened for the inspection of the Auditor, or the person or persons so appointed, and otherwise facilitate such examination so far as may be in their power so to do; and for the purpose of arriving at the truth in such case, the Auditor, or the person or persons so appointed by him, shall have power to examine, under oath, the officers or agents of any company, or others if necessary, relative to the business and condition of said company; and whenever the Auditor shall deem it best for the interest of the public so to do, he shall publish the result of such investigation in one or more papers in this State; and whenever it shall appear to the Auditor, from such examination, that the assets and funds of any company incorporated in this State are reduced or impaired by the liabilities of said company, as described under the head of liabilities in the statement required by this chapter, more than twenty per cent. below the paid-up capital stock required hereby, he may direct the officers thereof to require the stockholders to pay in the amount of such deficiency, within such a period as he may designate in such requisition, or he shall communicate the fact to the Attorney-General, who shall apply to the district or circuit court, or, if in vacation, to one of the judges thereof, for an order requiring said company to show cause why their business should not be closed; and the court, or judge, as the case may be, shall thereupon proceed to hear the allegations and proofs of the respective parties; and in case it shall appear to the satisfaction of said court, or judge, that the assets and funds of said company are not sufficient as aforesaid, or that the interest of the public requires it, the said court, or judge, shall decree a dissolution of said company and a distribution of its effects. The said court, or judge, shall have power to refer the application of the Attorney-General to a referee, to inquire into and report upon the facts stated therein. (*Ibid*, § 1149.)

**§ 2.** Any company receiving the aforesaid requisition from the Auditor, shall forthwith call upon its stockholders for such amounts as will make its paid-up capital equal to the amount fixed by this chapter, or the charter of said company; and in case any stockholder shall refuse or neglect to pay the amount so called for, after notice personally given, or by advertisement in such time and manner as said Auditor shall approve, it shall be lawful for the said company to require the return of the original certificate of stock held by such stockholder, and in lieu thereof to issue new certificates for such number of shares as the said stockholder may be entitled to in the proportion that the ascertained value of the funds of said company may be found to bear to the original capital of the said company; the value of such shares for which new certificates shall be issued to be ascertained under the direction of the said Auditor, the company paying for the fractional parts of shares; and it shall be lawful for the directors of such company to create new stock and dispose of the same, and to issue new certificates therefor, to an amount sufficient to make up the original capital of the company. And in the event of any additional losses accruing upon new risks, taken after the expiration of the period limited by the said Auditor in the aforesaid requisition for the filling up of the deficiency in the capital of such company, and before said deficiency shall have been made up, the directors shall be individually liable to the extent thereof. (*Ibid*, p. 205, § 1150.)

**33.** If, upon such examination, it shall appear to the Auditor that the assets of any company, chartered upon the plan of mutual insurance under this chapter, are insufficient to justify the continuance of such company in business, he shall proceed in relation to such company in the same manner as herein required in regard to joint-stock companies; and the trustees or directors of such company are made personally liable for any losses which may be sustained upon risks taken after the expiration of the period limited by the Auditor for filling up the deficiency in the capital, and before such deficiency shall have been made up. Any transfer of the stock of any company organized under this chapter, made during the pending of any investigation required above, shall not release the party making the transfer from his liability for losses which may have accrued previous to such transfer. (*Ibid*, § 1151.)

**34.** The Auditor of State shall be authorized to examine into the condition and affairs of any insurance company, as provided for in this chapter, doing business in this State, not organized under the laws of this State, or cause such examination to be made by some person or persons appointed by him, having no interest in any insurance company; and, whenever it shall appear to the satisfaction of said Auditor that the affairs of any such company are in an unsound condition, he shall revoke the certificates granted in behalf of such company, and shall cause a notification thereof to be published in some newspaper of general circulation published in the city of Des Moines, and the agent or agents of such company are, after such notice, required to discontinue the issuing of any new policy, or the renewal of any previously issued. (*Ibid*, p. 206, § 1152.)

**35.** There shall be paid by every company doing business in this State, except companies organized under the laws of this State, the following fees:

Upon filing declaration, or certified copy of charter, twenty-five dollars;

Upon filing the annual statement, twenty dollars;

For each certificate of authority, and certified copy thereof, two dollars;

For every copy of any paper filed in the department, the sum of twenty cents per folio, and for affixing the official seal to such copy, and certifying the same, one dollar;

For valuing policies of life insurance companies, ten dollars per million of insurance or for any fraction thereof;

For official examinations of companies under this act, the actual expense incurred.

And companies organized under the law of this State, shall pay the following fees:

For filing and examination of the first application of any company, and the issuing of the certificate of license thereon, ten dollars;

For filing each annual statement, and issuing the renewal of license required by law, three dollars;

For each certificate of authority to its agents, fifty cents. (*Ibid*, § 1153.)

**36.** When, by the laws of any other State, any taxes, fines, penalties, licenses, fees, deposits of moneys or of securities, or other obligations or prohibitions, are imposed, or would be imposed, on insurance companies of this State, doing, or that might seek to do,



business in such other State, or upon their agents therein, so long as such laws continue in force, the same obligations and prohibitions, of whatever kind, shall be imposed upon all insurance companies of such other State doing business within this State, or upon their agents here. (*Ibid*, § 1154.)

**37.** Every insurance company of the kind provided for in this chapter, doing business in this State, organized under the laws of this State or any other State or country, shall publish, annually, in two newspapers of general circulation, one of which shall be published at the capital of this State, and in case of any company organized in the State of Iowa, one of which shall be published in the county where the principal office is located, a certificate from the Auditor of State that such company has, in all respects, complied with the laws of this State relating to insurance. Said certificate shall also contain a statement, under the oath of the president or secretary of such insurance company, of the actual amount of paid-up capital, the aggregate amount of assets and liabilities at the date of such certificate, together with the aggregate income and expenditures of such company for the year preceding the date of such certificate. (*Ibid*, § 1155.)

**38.** The necessary expenditure of any examination made, or ordered to be made, by the Auditor of State under this chapter, shall be certified to by him and paid on his requisition, by the company which is the subject of such examination. (*Ibid*, p. 207, § 1156.)

**39.** The Auditor of State shall cause to be prepared and furnished to each company organized under the laws of this State, and to the attorney or agent of each company incorporated by other States and foreign governments, who may apply for the same, printed forms of statements required by this chapter, and he may, from time to time, make such changes in the forms of these statements as shall seem to him best adapted to elicit from the companies a true exhibit of their condition, in respect to the several points hereinbefore enumerated. (*Ibid*, § 1157.)

**40.** The Auditor of State shall cause the information contained in the statements required of the companies organized in this State to be arranged in a tabular form, and prepare the same in a single document for printing, which report shall be made on or before the first day of May of each year, and fifteen hundred copies shall be printed for the use of the Auditor, who shall furnish a copy to each member of the General Assembly and one to each newspaper printed in the State. (*Ibid*, § 1158.)

**41.** No company organized upon the mutual plan shall do business or take risks upon the stock plan; neither shall a company organized as a stock company do business upon the plan of a mutual insurance company. (*Ibid*, § 1159.)

**42.** Nothing in this chapter shall be so construed as to prevent any number of persons, not exceeding two thousand, from making mutual pledges and giving valid obligations to each other for their own insurance from loss by fire or death; but such association of persons shall in no case insure any property not owned by one of their own number, and no life except that of their own members, nor shall the provisions of this chapter be applicable to such associations or companies; but such associations or companies shall receive no premiums nor make any dividends. (*Ibid*, § 1160.)

**43.** Every insurance company doing business in this State,

except joint stock and mutual companies organized under the laws of this State, shall, at the time of making the annual statements as required by law, pay into the State treasury as taxes, two and one-half per cent. of the gross amount of premiums received in this State during the preceding year, taking duplicate receipts therefor, one of which shall be filed with the Auditor; and upon the filing of said receipts, and not till then, the said Auditor shall issue the annual certificate as provided by law; and the said sum of two and one-half per cent. shall be in full for all taxes, State and local. (*Ibid*, p. 135, § 807.)

**44.** Every company formed for the purpose of insuring the lives of individuals, whether organized under the laws of this State or of any other State, or foreign country, shall, before issuing any policies on lives within this State, comply with the conditions and restrictions of this chapter. (*Ibid*, p. 208, § 1161.)

**45.** Joint-stock companies, organized under the laws of this State, shall have not less than one hundred thousand dollars of capital stock subscribed, twenty-five per cent. of which shall be paid up and invested in stocks of the United States, or of this State, or in bonds and mortgages upon unincumbered real estate in the State of Iowa, worth, exclusive of improvements, at least double the sum loaned thereon, which said securities shall be deposited with the Auditor of State, and upon said deposit, and upon satisfactory evidence to the Auditor that the capital stock is all subscribed in good faith, he shall issue to said company the certificate hereinafter provided for. But no part of the twenty-five per cent. aforesaid shall be loaned to any stockholder or officer of the company; the remainder of such stock shall be paid in such time as the directors or trustees of the company may direct, and the same shall be secured by the notes of the stockholders of said company. No note shall be accepted as part of such capital stock, unless the same shall be accompanied by a certificate of a justice of the peace, notary public, or clerk of the district court of the county in which the person executing such note shall reside, that the person making the same is, in his opinion, pecuniarily good and responsible for the same in property not exempt from execution by the laws of this State. (*Ibid*, § 1162.)

**46.** Companies organized under the laws of this State upon the mutual plan, shall, before issuing any policies, have actual applications on at least two hundred and fifty individual lives, for an average amount of one thousand dollars each, a list of which applications, giving the name, age, residence, amount of insurance, and annual premium of each applicant, shall be filed with the Auditor of State, and a deposit made with said Auditor of an amount equal to three-fifths of the whole annual premium on said applications, either in cash or the securities required by the foregoing section, and, on compliance with said provisions, the said Auditor shall issue to said mutual company the certificate hereinafter prescribed. (*Ibid*, § 1163.)

**47.** No person shall act within this State as agent, or otherwise, in receiving or procuring applications for insurance, or in any manner to aid in transacting the business of insurance referred to in section eleven hundred and sixty-one hereof, for any company or association incorporated by, or organized under, the laws of any State or government, unless such company is possessed of the amount of actual capital required of any company in this State, and

the same is invested in stocks or treasury notes of the United States, or this State, or of interest paying bonds of the State in which said company is located, or where said deposits are made, or in bonds and mortgages on unincumbered real estate within the State where such company is located, but all mortgages deposited by any company under this section, shall be upon unincumbered real estate worth double the amount loaned thereon; which stock and securities shall be deposited with the Auditor, Controller, or chief financial officer of the State by whose laws said company is incorporated, or some other State, and the Auditor of this State furnished with a certificate of such Auditor, Controller, or chief financial officer aforesaid, under his hand and official seal, that he, as such Auditor, Controller, or chief financial officer of such State, holds in trust and on deposit, for the benefit of all the policy-holders of such company, the security before mentioned, which certificate shall embrace the items of security so held, and that he is satisfied that such securities are worth one hundred thousand dollars; but nothing herein contained shall be construed to invalidate the agency of any company incorporated in another State, by reason of such company having from time to time exchanged the securities so deposited with the Auditor, Controller, or chief financial officer of the State in which such company is located for other stock or securities authorized by this chapter, or by reason of such company having drawn its interest and dividends from time to time, for such stocks and securities. (*Ibid*, § 1164.)

48. Such company shall also appoint an attorney or agent in each county in this State, in which the company has an agency, on whom process of law can be served, and such company shall file with the Auditor of State a certified copy of the charter or articles of incorporation of said company, and also a certified copy of the certificate of appointment of such agent, or agents, which appointment shall continue until another agent or attorney be substituted. And in case any insurance corporation shall cease to transact business in this State according to the laws thereof, the agents last designated, or acting as such for such corporation, shall be deemed to continue agents for such corporation for the purpose of serving process for commencing actions upon any policy or liability issued or contracted while such corporation transacted business in this State; and service of such process for the causes aforesaid upon any such agent shall be deemed a valid personal service upon such corporation, and such company shall also file a statement of its condition and affairs in the office of the Auditor of State, in the same form and manner required for the annual statements of similar companies organized under the laws of this State. (*Ibid*, p. 209, § 1165.)

49. No agent shall act for any company referred to in the foregoing section, directly or indirectly, in taking risks, collecting premiums, or in any manner transacting the business of life insurance in this State, without procuring from said Auditor a certificate of authority, stating that the foregoing requirements have been complied with, and setting forth the name of the attorney for each company, a certified copy of which certificate shall be filed in the county recorder's office of the county where the agency is to be established, and shall be the authority of such company and agent to commence business in this State, and such company, or its agent or attorney, shall annually, by the first day of April, file with the

Auditor of State a statement of its affairs for the year terminating on the 31st day of December preceding, in the same manner and form provided for similar companies organized in this State. (*Ibid*, § 1166, *as amended by laws of 1874, p. 2, § 1.*)

**50.** The president, or vice-president, and secretary or actuary, or a majority of the trustees or directors of each company organized under this chapter, shall, annually, on the first day of January, or within thirty days thereafter, prepare, under oath, and deposit in the office of the Auditor of State, a statement, showing:

*First.*—Name and capital.

1. The name of the company and where located;
2. The name of the officers;
3. The amount of capital stock;
4. The amount of capital stock paid in.

*Second.*—Assets.

1. The value of real estate owned by such company;
2. The amount of cash on hand;
3. The amount of cash deposited in bank, giving name of bank or banks;
4. The amount of cash in the hands of agents, and in the course of transmission;
5. The amount of bank stocks, with the name of each bank, giving par and market value of the same;
6. The amount of stocks and bonds of the United States, and all other bonds, giving names and amounts, with the par and market value of each kind;
7. The amount of loans secured by first mortgage on real estate;
8. The amount of all other bonds and loans, and how secured, with the rate of interest;
9. The amount of premium notes on policies in force;
10. The amount of notes given for unpaid stock, and how secured;
11. The amount of assessments unpaid on stock or premium notes;
12. The amount of interest due and unpaid;
13. All other securities.

*Third.*—Liabilities.

1. The amount of losses due and unpaid;
2. The amount of losses adjusted but not due;
3. The amount of losses unadjusted;
4. The amount of claims for losses resisted;
5. The amount of money or evidences of investment borrowed;
6. The amount of dividends unpaid;
7. The amount required to safely reinsure all outstanding risks;
8. All other claims against the company.

*Fourth.*—Income during the year.

1. The amount of net cash premiums received;
2. The amount of premium notes received;
3. The amount of interest received from all sources;
4. The amount received from all other sources.

*Fifth.*—Expenditures during the year.

1. The amount paid for losses;
2. The amount of dividends paid to policy-holders and amount to stockholders;



3. The amount of commissions and salaries paid to agents;
4. The amount paid to officers for salaries and other perquisites;
5. The amount paid for taxes;
6. The amount of all other payments and expenditures.

*Sixth.*—Miscellaneous.

1. The greatest amount insured on any one life;
2. The amount deposited in other States or territories as security for policy-holders therein, stating the amount in each State or territory;
3. The amount of premiums received in this State during the year;
4. The amount paid for losses in this State during the year;
5. The whole number of policies issued during the year, with the amount of insurance effected thereby, and total amount of risk;
6. All other items of information necessary to enable the Auditor to correctly estimate the cash value of policies, or to judge of the correctness of the valuation thereof. (*Ibid*, 210, § 1167, as amended by laws of 1874, p. 2, § 2.)

**51.** The Auditor of State is authorized to amend the form of annual statement, and to propose such additional inquiries as he may think necessary to elicit a full exhibit of the standing of companies doing business in this State. (*Ibid*, p. 211, § 1168.)

**52.** As soon as practicable after the filing of said statement of any company organized or doing business under the laws of this State, in the office of the Auditor of State, he shall proceed to ascertain the net cash value of each policy in force, upon the basis of American Experience Table of Mortality, and four and one-half per cent. interest, or Actuary's Combined Experience Table of Mortality, with interest at four per cent.; but in case such valuation has been made in New York, or any other State, upon the basis above specified, a certificate of the Auditor, Controller, or chief financial officer of such State, shall be taken by the Auditor of this State as sufficient evidence of the valuation of such policies, and of the amount so required for such reinsurance. For the purpose of making such valuations, when not already made as aforesaid, the Auditor may employ a competent actuary to do the same, who shall be paid by the company for which the service was rendered; but nothing herein shall prevent any company from making said valuation herein contemplated, which shall be received by the Auditor upon such proof as he may determine. Upon ascertaining the net cash value of policies in force in any company organized under the laws of this State, or doing business in this State, and which has not made the deposit required in section eleven hundred and sixty-four of this chapter, the Auditor shall notify said company of the amount, and within thirty days after the date of such notification, the officers of such company shall deposit with the Auditor the amount of such ascertained valuation of all policies within this State, in stocks of the United States or of this State, or any other State, or in bonds and mortgages on real estate within the limits of this State, or within the State where such company is located, of at least double the value loaned thereon. But no joint-stock company organized under the laws of this State, or doing business therein, shall be required to make such deposit until the cash value of the policies in force, as ascertained by the Auditor, exceeds the amount deposited by said

company under section eleven hundred and sixty-two hereof. Foreign companies doing business in this State are not required to make deposit in this State; *Provided*, Such deposit has been made in the State where located, or in any other State, when they shall have complied with section eleven hundred and sixty-four of this chapter. (*Ibid*, § 1169.)

**53.** On receipt of the deposit and statement from any company as provided in the preceding sections, and the statement and evidence of investment according to law of foreign companies, which shall be renewed annually, the Auditor shall issue a certificate setting forth the corporate name of the company; its principal office or agency in the State; that it has fully complied with the laws of this State in relation to life insurance companies, and is authorized to transact the business of life insurance for twelve months from the date of such certificate, or until the expiration of the thirty days' notice given by the Auditor of the next annual valuation of its policies, said certificate to expire on the first day of April in the year following after it is issued. (*Ibid*, p. 212, § 1170, *as amended by laws of 1874*, p. 2, § 3.)

**54.** Upon the failure of any company organized in this State to make the deposit, or file the statement in the time stated herein, the Auditor shall notify the Attorney-General of the default, who shall at once apply to the district or circuit court if in session, or, if in vacation, to any judge thereof for an order requiring said company to show cause why its business shall not be closed; and, if upon hearing, the company shall fail to show sufficient cause for neglecting to make the deposit, or file the statement required by this chapter, then the court shall decree its dissolution. Companies organized and chartered by the laws of any foreign State or country, failing to file the evidence of deposit and the statement within the time stated herein, shall be subject to the penalties prescribed in section 1177. (*Ibid*, § 1171, *as amended by laws of 1874*, p. 3, § 4.)

**55.** The Auditor may at any time make a personal examination of the books, papers, and securities of any life insurance company doing business in this State, or may authorize or empower any other suitable person to make such examination, and for the purpose of securing a full and true exhibit of its affairs, he, or the person selected by him to make such examination, shall have power to examine under oath any officer or agent of said company, or others if necessary, relative to its business and management. If, upon such examination, the Auditor is of opinion that the company is insolvent, or that its condition is such as to render its further proceedings hazardous to the public or to the holders of its policies, he shall communicate the facts to the Attorney-General, who shall at once apply to a judge of the supreme or district court to issue an injunction, restraining such company from transacting further business, except the payment of losses already ascertained and due, until a full hearing can be had. It shall be discretionary with the judge either to issue the injunction forthwith or to give notice to the company, and cause a hearing to be had as in ordinary proceedings for an injunction. Upon the final hearing of the cause, he may dissolve or modify the injunction, or make it perpetual, and, if made perpetual, shall also decree what disposition shall be made of the deposit of the company in the hands of the Auditor, subject to the provisions of the following section. (*Ibid*, p. 213, § 1172.)

**56.** The securities of a defaulting or insolvent company, on

deposit with the Auditor of State, shall vest in the State for the benefit of the policies on which such deposits were made, and the proceeds of the same shall, upon the order of the court, be divided among the holders of said policies, in the proportions of the last annual valuation of the same, or applied to the purchase of reinsurance for the benefit of the policy-holders. (*Ibid*, § 1173.)

**57.** Companies shall have the right at any time to change their securities on deposit, by substituting for those withdrawn a like amount in other securities of the character provided for in this chapter, and whenever the annual valuation of policies outstanding and in force against any company is less than the amount of security then on deposit with the Auditor, said company shall have the right to withdraw such excess; but twenty-five thousand dollars shall remain on deposit. (*Ibid*, § 1174.)

**58.** The Auditor shall permit companies, having on deposit with him stock or bonds as security, to collect the interest accruing on such deposits, delivering to their authorized agents respectively the coupons or other evidences of interest as the same become due, but upon default by any company to deposit additional security as called for by the Auditor, or pending any proceedings to close up or enjoin it, he shall collect the interest as it becomes due, and add the same to the securities in his hands belonging to such company. (*Ibid*, p. 214, § 1175.)

**59.** At the earliest practicable date after the returns are received from the several insurance companies, the Auditor shall make a report to the General-Assembly, of the general conduct and condition of the corporations visited by him since his last annual report, and shall include therein an aggregate of the calculated value of all outstanding policies of life insurance, and in connection therewith, shall prepare an abstract of all the returns and statements made to him by insurance companies and agents. (*Ibid*, § 1176.)

**60.** Any company doing business in this State without the certificate required by section (1170) eleven hundred and seventy of this chapter, shall forfeit one hundred dollars for every day's neglect to procure said certificate. Any agent making insurance, or soliciting applications for any company having no certificate from the Auditor, shall forfeit the sum of three hundred dollars, and any person acting for a company authorized to transact business in this State, without having the certificate prescribed in section 1166, issued by the Auditor of State, in his possession, shall be liable to pay twenty-five dollars for each day's neglect to procure such certificate. (*Ibid*, § 1177, as amended by laws of 1874, p. 3, § 5.)

**61.** Suits brought to recover any of the penalties provided for in this chapter shall be instituted in the name of the State of Iowa by the District Attorney of the district, under the direction and by the authority of the Auditor of State, and may be brought in the district or circuit court of any county in which the company proceeded against is engaged in the transaction of business, or in which the agent resides, in cases in which the proceeding is against the agent individually. Said penalties when recovered shall be paid into the State treasury for the use of the school fund. (*Ibid*, § 1178, as amended by laws of 1874, p. 3, § 6.)

**62.** No company organized under the provisions of this chapter shall invest its funds in any other manner than in the stocks of the United States, of this State, or any other State, if at or above par; in bonds and mortgages on unincumbered real estate within

this State, or in the State in which such company is located, worth at least twice the amount loaned thereon, exclusive of improvements; and all stocks, bonds, or mortgages owned or held by any company doing business under the provisions of this chapter, whether organized under the laws of this State or not, shall be equal, or made to be equal to six per cent. stocks. (*Ibid*, § 1179.)

**63.** No company organized under this chapter, shall be permitted to purchase, hold, or convey real estate, except for the purposes and the manner herein set forth:

1. Such as shall be requisite for its immediate accommodation in the transaction of business; or,

2. Such as shall have been mortgaged to it in good faith by way of security for loans previously contracted, or for moneys due; or,

3. Such as shall have been conveyed to it in satisfaction of debts previously contracted in the course of its dealings; or,

4. Such as shall have been purchased at sales upon judgments, decrees, or mortgages obtained or made for such debts; and no company incorporated as aforesaid shall purchase, hold, or convey real estate in any other case, or for any other purpose. (*Ibid*, § 1180.)

**64.** All such real estate as may be acquired as aforesaid, and which shall not be necessary for the accommodation of such company in the convenient transaction of its business, shall be sold and disposed of within five years after such company shall have acquired title to the same; no such company shall hold such real estate for a longer period than that above mentioned, unless the said company shall procure a certificate from the Auditor of State that the interests of the company will suffer materially by a forced sale of such real estate, in which event the time for the sale may be extended to such time as the said Auditor shall direct in said certificate. (*Ibid*, p. 215, § 1181.)

**65.** A policy of insurance on the life of an individual, in the absence of an agreement or assignment to the contrary, shall inure to the separate use of the husband or wife and children of said individual, independently of his or her creditors; and an endowment policy, payable to the assured on attaining a certain age, shall be exempt from liability for any of his or her debts. (*Ibid*, § 1182.)

**66.** Each company contemplated in this chapter shall pay the same fees, and be liable to the same obligations as provided in sections eleven hundred and fifty-three and eleven hundred and fifty-four of chapter four of this title. (*Ibid*, § 1183.)

**67.** In all cases in which any of the life insurance companies doing business in this State, or their agents, have heretofore failed to file the statements with the Auditor of State, and to procure the certificates required by the provisions of chapter 173 of the acts of the twelfth General Assembly, and of chapter (5) five of title nine (9) of the Code of Iowa, within the times therein limited, but have, in fact, subsequently filed such statements and procured certificates from the Auditor of State, such filing of said statements and procuring of certificates shall be taken and deemed to be a fulfillment of the requirements and provisions of said acts above named, on the part of said companies and their agents, and shall have the same force and effect as though such statements had been filed and the certificates had been issued within the times limited and fixed in said chapter 173 of the acts of the twelfth (12) General Assem-



bly, and chapter five (5) of title nine (9) of the Code of Iowa, and no fine, penalty, or forfeiture shall be held or deemed to have been incurred by any of said companies, or their agents, previous to the issuing of the said certificates by the Auditor of State; and all forfeitures, fines, and penalties heretofore incurred by any of said life insurance companies, or by the agents thereof, be and the same are hereby released, remitted, and discharged. (*Laws of 1874, p. 3, § 7.*)

## ARSON AND INCENDIARISM.

**68.** If any person willfully or maliciously burn, in the night time, the inhabited building, boat, or vessel of another, or willfully and maliciously set fire to any other building, boat, or vessel owned by himself or another, by the burning whereof such inhabited building, boat, or vessel is burnt in the night time, he shall be punished by imprisonment in the penitentiary for life or any term of years. (*Code, 1873, p. 603, § 3880.*)

**69.** If any person willfully or maliciously burn, in the day time, the inhabited building, boat, or vessel of another, or any building, boat, or vessel adjoining thereto; or willfully and maliciously set fire to any building, boat, or vessel owned by himself or another; by the burning whereof such inhabited building, boat, or vessel is burnt in the day time; or in the day time willfully and maliciously set fire to any building, boat, or vessel owned by himself or another, by the burning of which any such inhabited building, boat, or vessel is burnt in the night time, he shall be punished by imprisonment in the penitentiary for a term not exceeding thirty years. (*Ibid, § 3881.*)

**70.** If any person willfully and maliciously burn, in the night time, any uninhabited dwelling-house, boat, or vessel belonging to another, or any courthouse, jail, college, church, or any building erected for public use; or any other building, boat, or vessel, by the burning whereof any building, boat, or vessel mentioned in this section is burnt in the night time, he shall be punished by imprisonment in the penitentiary not exceeding twenty years. (*Ibid, p. 604, § 3882.*)

**71.** If any person willfully and maliciously burn, in the day time, any building, boat, or vessel mentioned in the preceding section, he shall be punished by imprisonment in the penitentiary not exceeding fifteen years. (*Ibid, § 3883.*)

**72.** If any person willfully and maliciously burn, either in the night or day time, any warehouse, store, manufactory, mill, railroad depot, barn, stable, shop, office, out-house, or any building whatsoever of another, other than is mentioned in the preceding sections of this chapter, or any bridge, lock, dam, or flume, he shall be punished by imprisonment in the penitentiary not exceeding ten years. (*Ibid, § 3884.*)

**73.** If any person set fire to any building, boat, or vessel mentioned in the preceding sections of this chapter, or to any material, with intent to cause any such building, boat, or vessel to be burnt, he shall be punished by imprisonment in the penitentiary not exceeding five years, or by fine not exceeding one thousand dollars and imprisonment in the county jail not more than one year. (*Ibid, § 3885.*)

**74.** If any person willfully and maliciously burn, or otherwise

destroy or injure any pile or parcel of wood, boards, timber, or lumber, or any fence, bars, or gate, or any grain, hay, or other vegetable product severed from the soil, or any standing tree, grain, grass, or other standing product of the soil, the property of another, he shall be punished by imprisonment in the penitentiary not more than five years, or by fine not exceeding five hundred dollars, and imprisonment in the county jail not exceeding one year. (*Ibid*, § 3886.)

**75.** If any person willfully burn any building, goods, wares, merchandise, or other chattels, which are insured against loss or damage by fire, or willfully cause or procure the same to be burned, with intent to injure the insurer, whether such person be the owner of such property or not, he shall be punished by imprisonment in the penitentiary not exceeding ten years. (*Ibid*, § 3888.)

### EMBEZZLEMENT.

**76.** If any officer, agent, clerk, or servant of any incorporated company; or if any clerk, agent, or servant of a copartnership; or if any person over the age of sixteen years embezzle and fraudulently convert to his own use, or take and secrete with intent to convert to his own use, without the consent of his employer or master, any money or property of another which has come to his possession or is under his care by virtue of such employment, he is guilty of larceny, and shall be punished accordingly. (*Code*, 1873, p. 608, § 3909.)

**77.** For General Provisions concerning Corporations, see *Code*, 1873, pp. 183-187.

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# INSURANCE STATUTES OF KANSAS.

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*Revised by Hon. Orrin T. Welch, Superintendent of Insurance.*

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## CONSTITUTIONAL PROVISIONS CONCERNING CORPORATIONS.

**1.** The legislature shall pass no special act conferring corporate powers; corporations may be created under general laws, but all such laws may be amended or repealed. (*Art. 12, § 1.*)

**2.** Dues from corporations shall be secured by individual liability of the stockholders to an additional amount equal to the stock owned by each stockholder, and such other means as shall be provided by law. (*Art. 12, part of § 2.*)

**3.** The term corporation, as used in this article, shall include all associations and joint stock companies having powers and privileges not possessed by individuals and partnerships; and all corporations may sue and be sued in their incorporate name. (*Art. 12, § 6.*)

**4.** That there is hereby established a separate and distinct department, to be known as the Insurance Department, which shall be charged with the execution of all laws now in force, or which shall hereafter be passed, in relation to insurance and insurance companies doing business in the State of Kansas. (*Laws of 1871, p. 214, § 1.*)

**5.** There shall be appointed by the Governor, by and with the advice and consent of the Senate (if in session), within ten days after the passage of this act, a chief officer of said department, who shall be styled the Superintendent of Insurance, and shall hold his office for the term of four years, and until his successor is duly appointed and qualified, from the third Monday in March, eighteen hundred and seventy-five, and shall receive for his services the sum of two thousand five hundred dollars per annum; *Provided, however,* That the person first appointed Superintendent under this act shall enter upon the duties of his office within twenty days after his appointment. The person so appointed shall be an elector of this State, and shall during his term of office have no official connection with any insurance company, nor be employed by any such company. He shall be a person experienced and well versed in the matters of insurance, and shall give his personal presence and attention to the discharge of the duties of his office. If this appointment is made after the adjournment of the Senate, the Governor shall report the name of the appointee to the Senate for confirmation within ten days after the commencement of the next session. In case of a vacancy in said office by death, resignation, removal, suspension, or otherwise, the Governor shall fill the vacancy and report the name of such appointee to the Senate (if in session),

and if not, within ten days after the commencement of the next session thereafter; and such appointee, by and with the advice and consent of the Senate, shall hold his office for the unexpired term, and until his successor is duly appointed and qualified. If at any time the Governor shall become satisfied that the Superintendent is inefficient, incompetent, or derelict in the discharge of his duties, he is hereby authorized and required, by and with the advice and consent of the Senate (if it be in session), to remove said Superintendent from office; and if the Senate be not in session, to suspend him from the discharge of his duties, temporarily filling the vacancy as hereinbefore provided, and reporting the fact to the Senate at its next session thereafter, for its action thereon. (*Ibid*, § 2, as amended by *Laws of 1875*, p. 166, § 1.)

6. Before entering upon the discharge of his duties, the said Superintendent shall take an oath or affirmation to support the constitution of the United States and the constitution of the State of Kansas, and to faithfully and honestly discharge the duties of his said office, and that he is not an officer, agent, employee, or stockholder in any insurance company; and shall also give bond to the State of Kansas in the sum of twenty thousand dollars, with not less than two sureties, to be approved by the Governor and filed and recorded with the Secretary of State, conditioned for the faithful discharge of the duties of his office. The said Superintendent shall have the sole and exclusive charge of and control over said Insurance Department, under the laws relating thereto; and all powers, duty and authority now conferred by law upon the Auditor of this State with respect to insurance companies are hereby transferred to and conferred upon the said Superintendent. (*Ibid*, p. 215, § 3.)

7. Said Superintendent may appoint a deputy, who shall in no way be interested in any insurance company, except as a policyholder, whose appointment shall be evidenced by a certificate thereof, under the official seal of the Superintendent, and who shall continue in office during the pleasure of the Superintendent; and before entering upon his duties he shall take the oath of office hereinbefore prescribed for the Superintendent, who, in case of the absence or inability of the Superintendent, shall act as his deputy, and shall possess the powers and perform the duties of the Superintendent. The Superintendent shall also have power to employ such other clerks from time to time as may be necessary to carry on the business of his office with promptness and accuracy; *Provided*, The salary and wages of such deputy and clerks shall be paid by the said Superintendent out of the amount hereby fixed by law as the salary of the Superintendent, and whenever necessary for the examination into the business and affairs of any insurance company, may employ one or more skilled and competent persons to make such examination and report thereon; and whenever he may think necessary he shall call upon the Attorney-General of the State for legal counsel and such assistance as may be necessary to enforce the provisions of this act; and all salaries, payments, and expenditures for said Insurance Department authorized by this act shall be paid on the warrant of the Auditor of State, who shall issue such warrant only on proper vouchers and bills filed in his office by the Superintendent of the Insurance Department; *Provided*, All the expenses of the department hereby created shall be paid out of the fees and allowances named in this act, and the State shall not in any manner

become responsible for any expense growing out of the business of this department or any charges connected therewith. (*Ibid*, § 4, as amended by Laws of 1875, p. 167, § 2.)

8. The seal of the Superintendent of Insurance shall be one inch and three-fourths in diameter, surrounded by the words "Superintendent of Insurance of Kansas," with such device as the Governor and Superintendent may prescribe, a copy of which shall be filed in the office of the Secretary of State; and every certificate, assignment, or authority executed by said Superintendent in pursuance of any authority conferred by law, and sealed with his seal of office, shall be received as evidence, and may be recorded in the proper recording offices in the same manner and with like effect as a deed regularly acknowledged before an officer authorized by law to take the acknowledgment of deeds; and copies of any paper or record in the office of said Superintendent, certified by him, and authenticated by the said seal, shall in all case be evidence equally and in like manner as the original. (*Ibid*, p. 216, § 5.)

9. All books and documents, and all other papers whatever, in the office of the Auditor and Secretary of State, relating to insurance, shall, on demand, be delivered and transferred to the Superintendent of Insurance, who shall give a receipt for the same, which shall be a full release from all responsibility in connection with such documents, books, and papers; and thereafter such books, papers, and documents shall be and remain in the charge and keeping of the said Superintendent in his said office. (*Ibid*, § 6.)

10. It shall be the duty of the Superintendent of Insurance, whenever he shall have good reason to suspect the correctness of any annual statement of any insurance company incorporated in this State, or doing business by its agencies in this State, or that the affairs of any company making such statement are in unsound condition, to make or cause an examination to be made into the affairs of any such insurance company; and it shall be the duty of the officers or agents of any insurance company doing business in this State to cause their books to be opened for the inspection of said Superintendent, or the person or persons so appointed, and otherwise to facilitate such examination, so far as it may be in their power so to do. (*Ibid*, p. 217, § 7.)

11. For that purpose the Superintendent, or the person or persons so appointed by him, shall have power to examine, under oath, which he or they are hereby empowered to administer, the officers and agents of any company relative to the business of said company; and whenever the Superintendent shall deem it for the interest of the public, he shall publish the result of such investigation in some newspaper printed in Topeka, and of general circulation in the State. (*Ibid*, § 8.)

12. Whenever it shall appear to the said Superintendent, from such examination, that the assets of any life insurance company are insufficient to reinsure its outstanding risks, as provided by this act; or that the assets of any insurance company other than life, doing business in this State, are reduced more than twenty per cent. below the capital stock required by this act, or by its charter, he shall require the officers thereof to direct the stockholders to pay in the amount of such deficiency within such period as he may designate in such requisition; and in default thereof, he shall communicate the fact to the Attorney-General, whose duty it shall be to commence and prosecute an action in the proper court

to dissolve said insurance company, or to enjoin the same from doing or transacting business in this State. Every such action shall be governed by the provisions of Article twenty-nine of the Code of Civil Procedure, so far as the same are applicable. (*Ibid*, § 9.)

**13.** In case it shall appear to the satisfaction of said court that the assets of said company are not sufficient, as aforesaid, or that the interests of the public so require, the said court shall decree a dissolution of the said company and a distribution of its effects, or shall enjoin the same from doing or transacting any business in this State until it shall comply with this act, and be licensed by the Superintendent of Insurance to resume business. The court may refer the case to a referee, to inquire into and report upon the facts stated therein. After the Superintendent shall have issued his requisition as aforesaid, it shall be unlawful for said company to issue any new policies of insurance, or transact any new business, until the court shall have rendered its decision in the case, and until the Superintendent of Insurance shall have issued to such company a license (if said company has not been dissolved), which license shall be its authority to resume business. (*Ibid*, p. 218, § 10.)

**14.** Whenever it shall appear to the Superintendent of Insurance, from the report of the person appointed by him, or other satisfactory evidence, that the affairs of any company, partnership, or association, not organized under the laws of this State, are in an unsound condition, he shall revoke the authority granted to such company to do business in this State, and cause a notice thereof to be published in at least one newspaper published in the city of Topeka; and after the publication of such notice, it shall not be lawful for the agents of such company to procure any new applications for insurance or to issue any new policies. The expenses of any examination made under this act shall be paid by the company examined, if, in the opinion of the Superintendent, reasonable cause existed for such examination. (*Ibid*, § 11.)

**15.** Any transfer of stock of any company organized under the laws of this State, made during the pendency of any such investigation, shall not release the party making the transfer from his liability for losses which may have accrued previous to the transfer. (*Ibid*, p. 219, § 12.)

**16.** The said Superintendent shall annually make a report to the Governor of the general conduct and condition of the insurance companies doing business in this State, with such suggestions as he deems expedient, including also the information contained in the statements required of the said companies, and the result of the official valuations of life policies, to be arranged in tabular form, in two separate reports, one pertaining to life insurance companies, and the other to fire and all insurance companies other than life. He shall also report the names and compensation of the clerks employed by him, and the whole amount of income, and the source whence derived, and of the expenses in detail during the year ending upon the thirty-first day of the preceding December. One thousand copies of each of the said reports shall be printed and bound for the use of the legislature and Superintendent on or before the first day of July in each year. The Superintendent shall keep and preserve in a permanent form a full record of his proceed-



ings, including a concise statement of the condition of each company reported, visited, or examined by him. (*Ibid*, § 13.)

**17.** It shall be the duty of the said Superintendent, once in three years, to make or cause to be made net valuations of all the outstanding policies, additions thereto, unpaid dividends, and all other obligations of every life insurance company transacting business in this State; and for the purpose of such valuations, and for making special examinations of the condition of life insurance companies, as provided in the laws of this State relating to life insurance companies, and for valuing all policies of whatever description, and for any purpose whatever, the rate of interest shall be four and one-half percent. per annum, and the rate of mortality shall be established by the tables known as the American Experience Tables; *Provided*, That whenever the laws of any other State of the United States shall authorize a valuation of life insurance policies by some designated State officer, according to the same standard as herein provided, or some other standard which will require a reserve not less than the standard herein provided, the valuation made according to the said standard by such officer of the policies and other obligations of any life insurance company not organized under the laws of this State, and certified by said officer, may be received as true and correct, and no further valuation of the same shall be required of such company by the Superintendent of Insurance. The Superintendent may, in his discretion, value policies in groups, and use approximate averages for portions of years and otherwise, but he shall in all cases calculate values by net premiums. The Superintendent may, in his discretion, vary the above standard of interest and mortality in cases of companies from foreign countries, and in particular cases of invalid lives or other extra hazards. It shall be the duty of the Superintendent of Insurance, whenever requested so to do by any life insurance company organized under the law of this State, to make annual valuations of all outstanding policies and additions thereto, of every such company, and deliver to said company certificates of such valuation, specifying the amount of the company's reserve on policies thus valued, and such valuation shall be made upon such table of mortality and interest as such company may request; *Provided*, The valuation thus required shall not place the company's reserve below the legal standard of this State. (*Ibid*, § 14, as amended by Laws of 1873, p. 189, § 1.)

**18.** The Superintendent shall annually, in September, furnish to the insurance companies doing business in this State two or more printed copies of the forms of statements required by this act to be made by them, and he may make such changes from time to time in the form of the same, and such additions thereto, as shall seem to him best adapted to elicit from said companies a true exhibit of their condition in respect to the several points enumerated in the insurance laws of Kansas. (*Ibid*, p. 220, § 15.)

**19.** All securities deposited pursuant to the provisions of this act shall be deposited with the Treasurer of State, who, with his sureties, shall be responsible for the safe keeping thereof; and the said Treasurer shall give a receipt therefor in duplicate, showing the kind and amount of such securities so deposited, one copy of which shall be filed with the Superintendent of Insurance; and said Treasurer shall only deliver such securities or coupons attached thereto upon the written order of the Superintendent of Insurance. (*Ibid*, § 16.)

**20.** There shall be paid to the Superintendent of Insurance by every insurance company doing business in this State the following fees, to wit: For the filing and examination of the charter of any insurance company, and issuing the certificate of authority thereupon, the sum of fifty-five dollars; for filing the annual statement required, fifty dollars; for each license granted to agents, two dollars; for every copy of a paper filed in his office, the sum of twenty cents per folio; and for affixing the seal of office and certifying any paper, one dollar. There shall be paid also by every life insurance company not organized under the laws of this State, annually, by way of compensation for the valuation of its policies, in case no certified valuation of the same has been furnished to the Superintendent of Insurance, as provided in section thirteen of this act, one cent on every thousand dollars issued by it on lives. All the aforesaid fees shall be paid by the Superintendent into the State treasury, for an insurance fund, within thirty days after receiving the same, and shall be used for the purpose of defraying the expenses of the Insurance Department. The State Treasurer shall give duplicate receipts for all moneys thus paid into the State treasury by the Superintendent of Insurance, one of which shall be delivered to the Auditor of State, and the other to be filed in the Insurance Department. In case the expenses of this Department shall exceed the amount collected under the provisions of this act, the Superintendent shall annually assess upon all insurance companies doing business in this State a sum equal to such excess, which he shall collect and pay into the State treasury. Such assessment shall be for equal amount upon each company. Every insurance company doing business in this State shall, in addition to the fees required in this act, pay into the State treasury, for the benefit of the annual school fund, the sum of fifty dollars each year. Whenever the existing or future laws of any other State or government shall require insurance companies organized under the laws of this State, applying to do business by agencies in such other State, or government, or of the agents thereof, any deposit of security in such State for the protection of policy-holders therein, or otherwise, or any payment for taxes, fines, penalties, certificates of authority, licenses, fees, or otherwise, greater than the amount required for such purposes from insurance companies of other States by the then existing laws of this State, then, and in every case, all companies of such States or governments establishing agencies in this State shall make the same deposit, for a like purpose, with the Superintendent of Insurance of this State, and pay to said Superintendent for taxes, fines, penalties, certificates of authority, licenses, fees, or otherwise, an amount equal to the amount of such charges and payments imposed by the laws of such other State or government upon the companies of this State and the agents thereof. All insurance companies, partnerships, and associations, organized under any foreign government engaged in the transaction of the business of insurance in this State, as provided for in this act, shall annually, on or before the first day of March in each year, pay to the Superintendent of Insurance two per cent. on all premiums received in cash or otherwise by their attorneys or agents in this State during the year ending on the preceding thirty-first day of December, which sum shall be paid, in addition to its other license fees, into the State treasury for the insurance fund. In case of neglect or refusal by any company to pay said sum, the Superintendent of Insurance shall revoke

the authority or license granted such company. (*Ibid*, § 17, as amended by laws of 1875, p. 168, § 3.)

**21.** It shall be unlawful for any person, company, or corporation in this State, either to procure, receive, or forward applications for insurance in any company or companies not organized under the laws of this State, or in any manner to aid in the transaction of the business of insurance with any such company, unless duly authorized by such company and licensed by the Superintendent of Insurance, in conformity to the provisions of this act; and any person violating the provisions of this section shall be liable to a penalty of five hundred dollars for each offense, to be collected as other penalties under this act. (*Ibid*, p. 222, § 18.)

**22.** Any insurance company not organized under the laws of this State may appoint one or more general agents in this State, with authority to appoint other agents of said company in this State. A certified copy of such appointment shall be filed with the Superintendent of Insurance; and agents of such company, appointed by such general agent, shall be held to be the agents of such company as fully, to all intents and purposes, as if they were appointed directly by the company. Agents for any such company in this State may be appointed by the president, vice-president, chief manager, or secretary thereof, in writing, with or without the seal of the company; and when so appointed, shall be held to be the agents of such company as fully as if appointed by the board of directors or managers in the most formal mode. (*Ibid*, § 19.)

**23.** When any company transacting business of insurance under this act, within the State of Kansas, shall desire to discontinue its business, the Superintendent shall, upon application of such company or association, give notice of such intention in a paper published and having general circulation in the county in which said company or its general agency is located, at least once a week for six weeks, the expenses of publication to be paid by the State Superintendent at the expense of such company. After such publication, the said Superintendent shall deliver up to such company or association the securities held by him belonging to them, on being satisfied by the exhibition of the books and papers of such company or association, and on examination to be made by himself or some competent disinterested person or persons, to be appointed by him, and upon the oath of the president or principal officer, and the secretary or actuary of the same, that all debts, judgments, and liabilities of every kind are paid and extinguished that are due, or that may become due, upon any contract or agreement made with any citizen or resident of the United States. And the said Superintendent may also, from time to time, deliver up to such company or association, or its assigns, any portion of said securities, on being satisfied that an equal proportion of the debts and liabilities of every kind that are due or may become due upon any contract or agreement made with any citizen or resident of the United States, by said company or association, has been satisfied; *Provided*, The amount of securities retained by him shall not be less than twice the amount of remaining liabilities. (*Ibid*, p. 223, § 20.)

**24.** All the provisions of this act, relating to insurance companies organized under the laws of any other State of the United States, shall apply to any company organized under the laws of the United States, for any of the purposes specified in this act; and all the provisions of this act, relating to agents of companies organ-

ized under the laws of any such State, shall apply to the agents of such companies organized under the laws of the United States. And any violation of the provisions of this act by any person or agent in the employment of any such company, organized under the laws of the United States, shall subject the offender to the same penalties provided by this act for any violation of its provisions by persons acting for similar companies organized under the laws of any other State of the United States. (*Ibid*, § 21.)

**25.** Every violation of the provisions of this act shall subject the party violating the same to a penalty of not less than one hundred nor more than five hundred dollars for each violation, which shall be sued for and recovered in the name of the State of Kansas, by the county attorney of the county in which the company is located, or the agent or agents so violating shall reside; and one-half of such penalty, when collected, shall be paid into the treasury of said county, for the use of the county, and the other half to the informer. In case of the non-payment of such penalty, the party so offending shall moreover be liable to prosecution in any court of competent jurisdiction, and on conviction thereof shall be imprisoned for any period not exceeding six months, in the discretion of the court. (*Ibid*, p. 224, § 22.)

**26.** The provisions of this act shall apply to individuals and partners, and to all companies and associations, whether incorporated or not, now or hereafter engaged in the business of insurance. It shall be unlawful for any company, corporation, or association, whether organized in this State or elsewhere, either directly or indirectly to engage in the business of insurance, or to enter into any contracts substantially amounting to insurance, or in any manner to aid therein, in this State, without first having complied with all the provisions of this act. And any corporation, company or association, violating the provisions of this section, and any individual, company, association or corporation aiding in any manner, either as agent or otherwise, in such violation, shall be liable to a penalty of five hundred dollars, to be collected as other penalties under this act. (*Ibid*, § 23.)

**27.** All certificates and licenses granted under this act shall continue in force until the last day of February next after their date, unless suspended or revoked by the Superintendent of Insurance. (*Ibid*, § 24.)

### INSURANCE OTHER THAN LIFE.

**28.** Hereafter when any number of persons shall associate to form an insurance company for any other purpose than life insurance, and become incorporated in accordance with the provisions of chapter twenty-three of the General Statutes of 1868, relating to private corporations, they shall publish a notice of such intention once in each week for at least four weeks, in a public newspaper in the county in which such insurance company is proposed to be located, before executing their charter as in said act provided. Every such company heretofore or hereafter organized shall file with the Superintendent of Insurance a copy of its charter, duly certified by the Secretary of State. (*Ibid*, p. 225 § 25.)

**29.** No such joint stock company shall hereafter be incorporated with a smaller capital than one hundred thousand dollars, as may be specified in the certificate of incorporation, which stock



shall be divided into shares of one hundred dollars each, except as herein provided. (*Ibid*, § 26.)

**30.** Having filed a copy of its charter as aforesaid with the Superintendent of Insurance, the persons named in the certificate of incorporation, or a majority of them, shall be commissioners to open books for the subscription of stock in the company, at such times and places as they shall deem convenient and proper, and shall keep the same open until the full amount specified in the certificate [of incorporation] is subscribed. (*Ibid*, § 27.)

**31.** The affairs of any such company [hereafter] organized under the laws of this State, shall be managed by not more than twenty-five nor less than five directors, all of whom shall be stockholders. Within one month after the subscription books shall have been filled, a majority of the subscribers shall hold a meeting for the election of directors, each share entitling the holder thereof to one vote; and the directors then elected shall continue in office for the term of one year, as the by-laws of the company may direct, and until others have been chosen to succeed them in the trust, and have accepted the same. (*Ibid*, § 28.)

**32.** It shall be lawful for any insurance company incorporated under the laws of this State for any purpose other than life insurance, to invest its capital, and the funds accumulated in the course of its business, or any part thereof, in bonds and mortgages on real estate worth fifty per cent. more than the sum loaned thereon over and above all incumbrances, exclusive of buildings, unless such buildings are insured, and the policy transferred to said company; and also in the stocks of this State, or stocks or treasury notes of the United States; and also in the stocks and bonds of any county, school district, or incorporated city in this State authorized to be issued by the legislature; and to lend the same, or any part thereof, on the security of such stocks or bonds, or treasury notes, or upon bonds or mortgages as aforesaid, and to change and reinvest the same as occasion may from time to time require; but any surplus money over and above the capital stock of any such insurance company may be invested in or loaned upon the pledge of the public stock or bonds of the United States, or any one of the States, or the stocks, bonds, or other evidences of indebtedness of any solvent dividend-paying institutions incorporated under the laws of the State or of the United States; *Provided always*, That the current market value of such stocks, bonds or other evidences of indebtedness shall be at all times, during the continuance of such loans, at least twenty per cent. more than the sum loaned thereon. (*Ibid*, § 29.)

**33.** Upon the complying with the foregoing provisions by any such insurance company, the Superintendent of Insurance shall cause an examination to be made, either by himself or some disinterested person specially appointed by him for that purpose, who shall certify under oath that the capital herein required of the company named, according to the nature of the business proposed to be transacted by such company, has been paid in and is possessed by it in money, or in such stocks and bonds and mortgages as are required by the twenty-ninth section of this act, in an amount not less than one hundred thousand dollars. Such certificate shall be filed in the office of the said Superintendent, who shall thereupon deliver to such company a certified copy of said certificate, which, on being recorded in the office of the register of deeds of the county

where the company is to be located, in a book provided for that purpose, shall be their authority to commence business and issue policies; and such certified copy of such certificate may be used in evidence for or against said company with the same effect as the original. (*Ibid*, p. 226, § 30.)

**34.** It shall be lawful for any such company, organized under the laws of this State, first, to insure houses, buildings, and all other kinds of property, against loss or damage by fire, and fire and lightning, in and out of the State; and to make all kinds of insurance on goods, merchandise, and other property, in the course of transportation, whether on land or water, or on any vessel or boat, wherever the same may be; second, to make insurance on the health of individuals, and against personal injury, disablement or death, resulting from traveling, or general accidents by land or water; third, to insure horses, cattle, and other live stock against loss or damage by accident, theft or death, or any unknown or contingent event whatever, which may be the subject of legal insurance; and generally to do and to perform all other matters and things proper to promote these objects; *Provided*, That no company shall be organized to issue policies of insurance for more than one of the above three mentioned purposes; and no company that shall have been organized for either one of said purposes shall issue policies of insurance for any other; and no such insurance company transacting business in this State shall expose itself to loss, on any one risk or hazard, to an amount exceeding five per cent. on its paid-up capital, unless the excess shall be reinsured by the same in some other good and reliable company. (*Ibid*, p. 227, § 31.)

**35.** The annual meeting for the election of directors shall be holden at such time and place as the by-laws of the company may direct, except as provided in section 21 of chapter 23 of the general laws of 1868 aforesaid; and the directors chosen at any annual or special meeting shall continue in office until the next annual meeting, and until their successors are duly elected and qualified. (*Ibid*, § 32.)

**36.** The directors shall elect, by ballot, a president, vice-president, secretary, treasurer, and such other officers as they shall prescribe in their by-laws, and the board of directors, or a majority of them, when convened at the office of the company, shall be competent to fill any vacancy that exists among its officers or board of directors. They shall also have power to appoint any agents necessary for transacting the business of the company, paying such salaries and taking such securities as they may judge reasonable; they may ordain and establish by-laws and regulations, not inconsistent with this act, or with the constitution and laws of this State and of the United States, as shall appear to them necessary for regulating and conducting the business of the company; and it shall be their duty to keep full and correct entries of their transactions, which shall at all times be open to the inspection of the stockholders. (*Ibid*, § 33.)

**37.** All policies or contracts of insurance made or entered into by any such company organized under the laws of this State, may be made either with or without the seal thereof. They shall be subscribed by the president or such other officer as may be designated in their by-laws for that purpose, and shall be attested by the secretary; and being so subscribed and attested, they shall be obligatory on the company. (*Ibid*, p. 228, § 34.)

**38.** Transfers of stock may be made by any shareholder, or his legal representative, subject to such restrictions as the directors shall, from time to time, make and establish in their by-laws, except as provided in section twelve of this act. (*Ibid*, § 35.)

**39.** Whenever any company, heretofore or hereafter organized under the laws of the State of Kansas, shall increase the amount of its capital, as provided by section 14 of chapter 23 of the General Laws of 1868, it shall file with the Superintendent of Insurance a certified copy of the certificate so filed with the Secretary of State, and thereafter such company shall be entitled to have the increased amount of capital fixed by said certificate, and the examination of securities composing the capital stock thus increased shall be made in the same manner as is provided in section thirty of this act for capital stock originally paid in. (*Ibid*, § 36.)

**40.** It shall not be lawful for the directors, trustees, managers, or officers of any insurance company other than life, organized under any of the laws of this State, directly or indirectly, to make or pay any dividend, or pay any interest, bonus, or other allowance in lieu of dividends, except from surplus profits arising from their business; and in estimating such profits there shall be reserved therefrom a sum equal to forty per cent. of the amount received for premiums on unexpired risks and policies, which shall be held to be the amount of unearned premiums, and shall be held and regarded as an absolute liability of the company. And there shall also be reserved all interest due or accrued and unpaid, and the amount of all bonds, mortgages, notes, stocks, book accounts, and judgments due to or held by the company on which no part of the principal or interest shall have been paid during the year previous. And any division or payment made contrary to the provisions of this section shall subject the company making the same to a forfeiture of its charter. (*Ibid*, p. 229, § 37.)

**41.** No such company organized under the laws of this State shall purchase, hold, or convey real estate, except for the purposes and in the manner herein set forth, to wit:

*First.*—Such as shall be requisite for its convenient accommodation in the transaction of its business; or,

*Second.*—Such as shall have been mortgaged to it in good faith, by way of security for loans previously contracted or for money due; or,

*Third.*—Such as shall have been conveyed to it in satisfaction of debts previously contracted in their legitimate business, or for money due; or,

*Fourth.*—Such as shall have been purchased at sales upon judgment, decrees, or mortgages obtained or made for such debts; and it shall not be lawful for any such company to purchase, hold, or convey real estate in any other case, or for any other purpose; and all such real estate as may be acquired as aforesaid, and which shall not be necessary for the accommodation of such company in the transaction of its business, shall be sold and disposed of within five years after such company shall have acquired title thereto, unless the company shall procure a certificate from the Superintendent of Insurance that the interests of the company will suffer materially by a forced sale thereof, in which event the sale may be postponed for such period as the said Superintendent shall direct in said certificate. (*Ibid*, § 38.)

**42.** It shall be the duty of the president or vice-president and

secretary of each such insurance company organized or incorporated under the laws of this State, annually, on the first day of January, or within two months thereafter, to prepare, under oath, and deposit in the office of the Superintendent of Insurance, a statement of the condition of such company on the thirty-first day of December then next preceding, exhibiting the following facts and items in the following form, namely:

*First.*—The amount of the capital stock of the company.

*Second.*—The property or assets held by the company, specifying:

1. The value, or as nearly as may be, of the real estate held by such company.

2. The amount of cash on hand and deposited in banks to the credit of the company, specifying in what banks the same is deposited.

3. The amount of cash in the hands of agents and in course of transmission.

4. The amount of loans secured by bonds and mortgages on real estate worth double the amount of all incumbrances, on which there shall be less than one year's interest due or owing.

5. The amount of loans on which interest shall not have been paid within one year previous to such statement.

6. The amount due the company on which judgments have been obtained.

7. The amount of stocks of this State, the United States, of any incorporated city of this State, and of any other stocks owned by the company, specifying the amount, number of shares, and par and market value of each kind of stock.

8. The amount of stocks held thereby as collateral security for loans, with the amount loaned on each kind of stock, its par value and market value.

9. The amount of assessment on stock, paid and unpaid.

10. The amount of interest actually due and unpaid.

11. The number of policies in force.

12. The amount insured thereby.

13. The amount of premiums received thereon.

*Third.*—The liabilities of such company, specifying:

1. The amount of losses due and yet unpaid.

2. The amount of claims for losses resisted by the company.

3. The amount of losses incurred during the year, including those claimed and not yet due, and of those reported to the company upon which no action has been taken.

4. The amount of dividends declared and due and remaining unpaid.

5. The amount of dividends, either cash or scrip, declared, but not yet due.

6. The amount of money borrowed and security given for the payment thereof.

7. The amount of all other existing claims against the company.

*Fourth.*—The income of the company during the preceding year, specifying:

1. The amount of cash premiums received.

2. The amount of notes received for premiums.

3. The amount of interest money received.

4. The amount of income received from other sources.



*Fifth.*—The expenditures during the preceding year, specifying:

1. The amount of losses paid during the year, stating how much of the same accrued prior, and how much subsequent to the date of the [next] preceding [annual] statement, and the amount at which losses were estimated in such preceding statement.

2. The amount of dividends paid during the year.

3. The amount of expenses paid during the year, including commissions and fees to agents and officers of the company.

4. The amount of all other payments and expenditures.

(*Ibid*, p. 230, § 39.)

**43.** Every insurance company organized under any law of this State, failing to make and deposit such statement, or to reply to any inquiry of the said Superintendent, shall be subject to a penalty of five hundred dollars, and an additional five hundred dollars for every month that such company shall continue thereafter to transact any business of insurance; and in the annual report required to be made by section thirteen of this act, said Superintendent shall state what companies have, and what companies have not complied with the foregoing section, and he shall also make such suggestions as to the condition and management of any company or companies as he shall deem best. (*Ibid*, p. 232, § 40.)

**44.** It shall not be lawful for any insurance company, association, or partnership, incorporated, organized, or associated under the laws of any other State of the United States, or any foreign government, for any of the purposes mentioned in this act, directly or indirectly to transact any business of insurance in this State without first procuring from the Superintendent of Insurance a certificate of authority so to do; stating also that said company has complied with all the requisitions of this act applicable to such company; nor shall it be lawful for any insurance company, association, or partnership mentioned in this section, directly or indirectly to take risks, or transact any business of insurance in this State, unless possessed of the amount of actual capital required of similar companies, organized under the laws of this State. Every such company, on applying for admission and authority to transact business in this State, and as a condition precedent to obtaining any such authority, shall file in the insurance department its written consent, irrevocable, that actions may be commenced against such company in the proper court of any county in this State in which the cause of action shall arise, or in which the plaintiff may reside, by the service of process on the Superintendent of Insurance of this State, and stipulating and agreeing that such service shall be taken and held in all courts to be as valid and binding as if due service had been made upon the president or chief officer of such corporation. Such consent shall be executed by the president and secretary of the company, authenticated by the seal of the corporation, and shall be accompanied by a duly certified copy of the order or resolution of the board of directors, trustees, or managers, authorizing the said president and secretary to execute the same. Actions against any such insurance company may be brought in any county where the cause of action arose, or in which the plaintiff may reside. The summons shall be directed to the Superintendent of Insurance, and shall require the defendant to answer by a certain day, not less than forty days from its date. Said summons shall be forthwith forwarded by the clerk of the

court to the Superintendent of Insurance, who shall immediately forward a copy thereof to the secretary of the company sued, and another copy to the general agent of said company, if any such agent reside in this State; and thereupon said Superintendent shall make return of said summons to the court whence it issued, showing the date of its receipt by him, the date of forwarding such copies, and the name and address of each person to whom he forwarded such copy. Such return shall be under his hand and seal of office, and shall have the same force and effect as a due and sufficient return made by the sheriff on process directed to him. The said Superintendent shall keep a suitable record book, in which he shall docket every action commenced against insurance corporations, the time when commenced, the date and manner of service; also, the date of the judgment, its amount and costs, and the date of payment thereof, which shall be certified from time to time by the clerk of the court. And every such company shall also file a certified copy of its charter, or deed of settlement, with said Superintendent, together with a statement, under the oath of the president or vice-president, or other chief officer, and the secretary of the company, for which he or they may act, stating the name of the company and the place where located; the amount of its capital, with a detailed statement of the facts and items required from companies organized under the laws of this State, as per section thirty-nine and forty of this act; also a copy of the last annual report, if any was made, under any law of the State by which such company was incorporated. (*Ibid*, § 41, as amended by laws of 1875, p. 169, § 4.)

**45.** Any company heretofore organized under any law of this State, for any of the purposes mentioned in [section 31 of] this act, which has taken notes or obligations of its stockholders for any portion or portions of the amount subscribed by them to its capital stock, shall retain all dividends declared to such stockholders, their heirs or assigns, and apply the same as a credit upon such stock, notes, or unpaid subscriptions, until such notes or unpaid subscriptions shall be fully paid; and the whole amount now or hereafter payable to any such company on stock, notes, obligations, or unpaid subscriptions, shall be invested by said company in the manner required by the twenty-ninth section of this act. (*Ibid*, p. 233, § 42.)

**46.** All insurance companies heretofore organized under any law of this State, shall be allowed one year from the last day of February, A. D. 1871, to comply with the foregoing sections of this act. (*Ibid*, p. 234, § 43.)

## LIFE INSURANCE.

**47.** Every company or corporation formed or organized pursuant to chapter 23 of the General Statutes of 1868, for the purpose of making insurance on the lives of individuals, shall file in the office of Superintendent of Insurance a copy of its charter, duly certified by the Secretary of State, and it shall also file a copy of its by-laws, which shall set forth the number of its directors or trustees, which shall not be less than five nor more than twenty-five, and the manner of electing the same, and their term of office respectively, a majority of whom shall be citizens of this State, the times of holding elections, and manner of filling vacancies. And every such

company shall thereafter have the power to make insurance on the lives of individuals, and every assurance pertaining thereto or connected therewith, and to grant, purchase, and dispose of annuities and endowments of every kind and description whatever. (*Ibid*, § 44.)

48. Whenever the corporators shall file such charter and by-laws with the Superintendent of the Insurance Department, they shall cause notice of their incorporation, and the names and residence of their directors and their place of business, to be published in a paper of general circulation in the county in which the office of the company is to be located for four weeks successively. They may then proceed to open books for subscription to the capital stock of the company, and keep the same open till the whole amount specified in the charter is subscribed; but it shall not be lawful for such company to issue policies or transact any business of any kind or nature whatsoever, until they have fully complied with all the requirements of this act, which fact shall be certified by the Superintendent of the Insurance Department. (*Ibid*, § 45.)

49. Upon being notified that the capital stock named in the charter has been subscribed, and one hundred thousand dollars thereof paid in, the Superintendent shall make an examination, or cause the same to be made by some disinterested person specially appointed by him for that purpose; and if it shall be found by himself, or if the person so appointed shall certify under oath that the provisions of this act have been complied with by said company so far as applicable thereto, which certificate, when made, shall set forth the particulars of such compliance, then the Superintendent shall so certify. The corporators or officers of such company shall be required to certify, under oath, to the person making such examination, that the money, notes, stocks, bonds, mortgages, and deeds of trust and obligations exhibited to him are the *bona fide* property of said company. (*Ibid*, p. 235, § 46.)

50. When the corporators have fully complied with the requirements of the preceding sections, and said corporation has deposited with the Treasurer of State [\$100,000] the amount of capital required to be deposited by the provisions of this act, it shall be the duty of the Superintendent of Insurance to furnish the company a certificate of such deposit, and a certificate of authority for it to commence the business proposed in its charter, which, on being filed and recorded in the office of the Register of Deeds of the county in which the company is to be located, shall be its authority to commence business and issue policies; and such certified copies of the declaration and certificate of deposit may be used in evidence for or against said company, with the same effect as the originals. (*Ibid*, § 47.)

51. No company formed under the laws of this State, for the purpose of insurance on the lives of individuals, shall commence or hereafter continue to do business or issue policies, unless upon an actual capital of at least one hundred thousand dollars; nor shall any such company commence or hereafter continue to do any business unless the full amount of capital stock named in its charter or articles of association shall have been in good faith subscribed, nor until such company shall have at least one hundred thousand dollars of its capital paid in and invested in stocks or bonds of the State of Kansas, or in treasury notes or stocks of the United States, or in notes or bonds secured by mortgages or deeds of trust on unincum-

bered real estate, worth at least double the amount loaned thereon ; nor until it holds for the balance unpaid on all its capital stock subscribed for, the notes of the respective subscribers, with good and sufficient security therefor, other than the stock of said company ; *Provided*, That existing life insurance companies shall be allowed six months from the passage of this act within which to comply with the provisions hereof relating to such companies. (*Ibid*, § 48.)

**52.** No company formed under the laws of this State for the purpose of insurance on the lives of individuals, shall commence or hereafter continue to do business until such company has deposited with the Treasurer of State, as provided by section sixteen of this act, for the security of its policy-holders, the sum of one hundred thousand dollars in stock, or in notes or bonds secured by mortgages or deeds of trust of the description mentioned in the forty-eighth section of this act, and in all cases to be or to be made to be equal to stock producing six per cent. per annum, and not to be received at a rate above their par value, nor above their current market value ; such securities shall be held by said Treasurer as security for the policy-holders of said company, and for no other purpose ; but so long as any company so depositing shall continue solvent he may permit such company to collect the interest or dividends on its securities so deposited, and from time to time to withdraw any of such securities, or change the same on replacing other securities of like value of those withdrawn, and of the character of which, by the provisions of this act, said company is allowed to invest its funds. (*Ibid*, p. 236, § 491.)

**53.** Whenever any such company shall deposit with the said Treasurer the amount of the net present value of any policy or annuity bond valued by the American Table of Mortality, interest at four and one-half per cent., in securities of the character in which by the provisions of this act insurance companies may invest their funds, it shall be the duty of said Superintendent to issue to said company registered policies of insurance or annuity bonds of such denomination or amounts as the said company may require. Such policies and annuity bonds shall bear upon their face the words, "This policy, among a limited number, is secured by pledge of public stock, or bonds and mortgages," with the seal of said department, and shall be countersigned by the Superintendent or his authorized deputy. (*Ibid*, § 50.)

**54.** The said Superintendent of the Insurance Department shall, on delivering said policies or annuity bonds to any life insurance company, charge to said company the amount of the net present value of such policies or annuity bonds valued as aforesaid, according to the amount and number of premiums paid annually, semi-annually and quarterly thereon, and the terms thereof. On the first day of January of each and every year, or within sixty days thereafter, the said companies shall make a return to the Superintendent of the Insurance Department, under oath of the president and secretary and actuary, of the exact condition of the registered policies received from the said department, and of the premium account of the said policies, and shall deposit with the said Treasurer additional and similar securities to an amount equal to any increase of value of the policies heretofore issued, and which shall remain in force, valued by the same rule as upon the issue thereof ; and the securities thus deposited shall be held by the said Treasurer in trust until the obligations of the said depositing life insurance companies,



respectively, under the said registered policies and annuity bonds, shall, to the satisfaction of the said Superintendent, be fully liquidated, canceled, or annulled; and when any registered policy ceases, by lapse or otherwise, to become an obligation, in whole or in part, the amount held on deposit to the credit of such policy shall be returned to said company, in proportion as said policy has ceased to be an obligation as aforesaid. (*Ibid*, p. 237, § 51.)

**55.** The said depositing companies may at any time withdraw any excess of securities above the net present value hereinbefore specified, upon satisfying the said Superintendent by written proof, to be filed in the said department, that such excess exists, and shall be allowed to receive the interest on all securities deposited, and to exchange such securities by substituting other securities, such as, by the provisions of this act, said company is authorized to invest its funds in. (*Ibid*, § 52.)

**56.** The said companies shall deliver to the Superintendent of the Insurance Department the policies and annuity bonds engraved and printed, or printed and written in such manner as the said company and applicant for insurance may agree. On the receipt by the Superintendent he shall cause them to be duly registered in proper books kept for that purpose, in consecutive numbers, corresponding to the numbers on said policies and annuity bonds, shall cause his name or the name of his deputy to be inscribed on the policies and bonds, and affix the seal of the department to the same, and shall return the original policies to the said depositing companies respectively. It shall be the duty of the said Superintendent to receive and destroy mutilated policies and annuity bonds issued to the said companies, and deliver in lieu thereof other policies and bonds of like tenor and date. (*Ibid*, p. 238, § 53.)

**57.** Any life insurance company, or any trust or loan company, heretofore or hereafter organized under any law of this State, may, by the direction and consent of two-thirds of their respective boards of directors, or finance committee, purchase or invest by loan or otherwise, any of their funds in bonds, or notes and mortgages in unincumbered real estate worth fifty per cent. more than the sum so loaned thereon, or in stocks or bonds of the United States or of this State, or any other State, or in bonds issued by any county, city, town, village or school district of this State, pursuant to any law of this State, anything in the charter of either of said companies to the contrary notwithstanding. (*Ibid*, § 54.)

**58.** The incorporators or directors of any life insurance company heretofore or hereafter organized under any law of this State, shall have power to adopt a seal and make such by-laws, not inconsistent with this act or the constitution and laws of this State, as they may deem necessary for the regulation and management of its affairs, and the distribution of its surplus and investment of its funds. (*Ibid*, § 55.)

**59.** Every such life insurance company shall have two chief officers, one of whom shall be known as the president, and the other as the secretary, and such other officers as the incorporators or directors of the company may designate in the by-laws. All contracts made by the company shall be signed by both the president and secretary. Every such company shall have one or more vice-presidents and an assistant secretary, who, in the absence of the president and secretary, shall have all the powers and perform all the duties of the president and secretary. Every such company may in

its by-laws specify what number of its directors, not being less than five, shall constitute a quorum. (*Ibid*, p. 239, § 56.)

**60.** It shall be the duty of the president, or vice-president and secretary, or actuary, of every life insurance company organized under the laws of this State, annually, on the first day of January, or within sixty days thereafter, to prepare under oath, and deposit in the office of the Superintendent of the Insurance Department, a statement, showing:

*First.*—The number of policies issued during the year.

*Second.*—The amount of assurance effected thereby.

*Third.*—The amount of premiums received during the year.

*Fourth.*—The amount received for interest, and all other receipts during the year, classifying the items.

*Fifth.*—The amount of losses paid during the year.

*Sixth.*—The amount of losses unpaid, giving the reason for non-payment.

*Seventh.*—The amount of expenses, classifying the items.

*Eighth.*—The whole number of policies in force, specifying the description and amount of each policy.

*Ninth.*—The amount of liabilities or risks thereon, and all other liabilities.

*Tenth.*—The amount of capital stock, and how invested.

*Eleventh.*—The amount of assets other than capital, and the manner in which they are invested; what amount is invested in real estate, in stocks, promissory notes and other securities, and what amount is loaned on bonds and mortgages or deeds of trust, stocks, policies of the company and other securities, specifying the kinds and amount.

*Twelfth.*—The amount of dividends declared to stockholders and policy-holders respectively, and how much remains unpaid.

*Thirteenth.*—A tabular statement of the policies in force for the whole term of life, showing what number for each age of life, and for what amount of risks were issued or continued in force the first year of the existence of the company, during the second year, and so on up to the time of making the statement.

*Fourteenth.*—A tabular statement of the policies in force for a shorter period than the whole term of life, showing what number of each age of life, and for what amount of risks were issued or continued in force during the first year of the company's existence, during the second year, and so on up to the time of making such statement. It shall be the duty of the Superintendent of the Insurance Department to arrange the information contained in the above statements in a tabular form, or in abstracts, and the same shall be published in his annual report. (*Ibid*, § 57.)

## COMPANIES NOT ORGANIZED UNDER THE LAWS OF THIS STATE.

**61.** It shall not be lawful for any person to act within this State as agent or otherwise, in receiving or procuring applications for insurance, or in any manner to aid in transacting business for any life insurance company or association incorporated by or organized under the laws of the United States, or any other State of the United States, or any foreign government, unless such company is possessed of the amount of capital and of actual paid-up capital

required of life insurance companies formed under the laws of this State. (*Ibid*, p. 240, § 58.)

**62.** No such company mentioned in the preceding section shall transact any such business unless it shall file in the insurance department its written consent, irrevocable, that actions may be commenced against such company, in the proper court of any county in this State in which the cause of action shall arise, or in which the plaintiff may reside, by the service of process on the Superintendent of Insurance of this State, and stipulating and agreeing that such service shall be taken and held in all courts to be as valid and binding as if due service had been made upon the president and secretary of the company, authenticated by the seal of the corporation, and shall be accompanied by a duly certified copy of the order or resolution of the board of directors, trustees, or managers, authorizing the said president and secretary to execute the same. Actions against any such insurance company may be brought in any county where the cause of action arose, or in which the plaintiff may reside. The summons shall be directed to the Superintendent of Insurance, and shall require the defendant to answer by a certain day, not less than forty days from its date. Said summons shall be forthwith forwarded by the clerk of the court to the Superintendent of Insurance, who shall immediately forward a copy thereof to the secretary of the company sued, and another copy to the general agent for said company, if any such agent resides in this State; and thereupon said Superintendent shall make return of said summons to the court whence it issued, showing the date of its receipt by him, the date of forwarding such copies, and the name and address of each person to whom he forwarded such copy. Such return shall be under his hand and seal of office, and shall have the same force and effect as a due and sufficient return made by the sheriff on process directed to him. The said Superintendent shall keep a suitable record book, in which he shall docket every action commenced against insurance corporations, the time when commenced, the date and manner of service, also the date of the judgment, its amount and costs, and the date of payment thereof, which shall be certified from time to time by the clerk of the court. (*Ibid*, § 59, as amended by laws of 1875, p. 171, § 5.)

**63.** No such company, mentioned in the fifty-eighth section of this act, shall transact any business as aforesaid by any agent or agents in this State, unless it shall first file in the office of the Superintendent of the Insurance Department a certified copy of its charter or act of incorporation, together with a statement, under the oath of the president and secretary of such company, showing the condition of the affairs of said company on the first day of January next preceding the date of such oath. The statement shall be in the same form, and shall set forth the same particulars, as the annual statement required of companies organized under the laws of this State by the fifty-seventh section of this act. Such company shall also file a copy of its last annual report, made in compliance with any law of the State or country by which said company was incorporated, if any such report shall have been made. (*Ibid*, p. 241, § 60.)

**64.** It shall not be lawful for any life insurance company organized or incorporated under the laws of the United States, or of any other State of the United States, to transact in this State any business unless one hundred thousand dollars of the capital or assets

of such company be invested in treasury notes or stocks of the United States, or in bonds of the State of Kansas, or of the State under the laws of which such company is incorporated, or loaned on notes or bonds secured by mortgages or deeds of trust on unincumbered real estate worth at least double the amount loaned thereon; nor unless securities of the kind or kinds aforesaid, to the actual value of one hundred thousand dollars, shall have been deposited for the security of its policy-holders with the Superintendent or Commissioner of Insurance, or chief financial officer of the State, and under or by the laws of the State in which such company is incorporated; or if such company is incorporated under the laws of the United States, with some financial officer of the United States; *Provided*, That any such company not having such deposit made in the State in which it is organized, or with some officer of the United States, may make such deposit in this State in the manner and subject to the provisions set forth in the forty-ninth section of this act. (*Ibid*, p. 241, § 61.)

**65.** It shall not be lawful for any such company mentioned in the preceding section, unless such company has made a deposit in this State as in said section provided, to transact in this State any business mentioned in section forty-four of this act, until it shall have filed with the Superintendent of the Insurance Department of this State the certificate of the Commissioner, or Superintendent, or chief financial officer aforesaid, under his hand and official seal, certifying that he holds in trust and on deposit for the benefit of all policy-holders of such company the notes, stocks, and securities before mentioned, and stating the kinds of such notes, stocks, and securities, and the amount of each specifically; when issued, when and where payable, and the rate of interest; and that he is satisfied they are worth one hundred thousand dollars. (*Ibid*, § 62)

**66.** No life insurance company incorporated by, or organized under the laws of any foreign government, shall transact business in this State, unless it shall first deposit with the Treasurer of this State, as provided in section sixteen of this act, for the benefit of the policy-holders of said company, citizens or residents of the United States, bonds or securities to the amount of one hundred thousand dollars of the kind required of similar companies organized under the laws of the State, and subject to all the provisions of this act; *Provided*, That if such deposit has been made in any other State of the United States, under the laws thereof, in such a manner as to secure equally the policy-holders of such company, citizens and residents of the United States, no deposit shall be required in this State, but a certificate of such deposit shall be filed with the Superintendent of the Insurance Department, as required by the provisions of this act, in regard to companies organized under the laws of the United States, and of other States of the United States. (*Ibid*, p. 243, § 63.)

**67.** Every life insurance company incorporated by, or organized under the laws of the United States, or any other State of the United States, and doing business in this State, shall annually, on the first day of January, or within sixty days thereafter, file with the Superintendent of the Insurance Department of this State a statement of its affairs, in the same manner and form as hereinbefore provided for similar companies organized under the laws of this State. (*Ibid*, § 64.)

**68.** Every such company incorporated by, or organized under,



the laws of any foreign government, and doing business in this State, shall annually, on the first day of January, or within sixty days thereafter, file with the Superintendent of the Insurance Department a statement of its affairs, in the same manner and form as provided in this act for the annual statements of similar companies organized in this State. Said statements shall be made up for the year ending on the preceding thirtieth of June, and shall be accompanied by a supplementary annual statement, certified to under oath by some officer or agent of the company, giving first a detailed description of the policies issued and of those which have ceased to be in force during the year throughout the United States; second, the amount of premiums received, and claims and taxes paid in this State and in the United States, for the year ending on the thirty-first day of the preceding December. Such supplementary statements shall also contain a description of the investments of such company in the United States, and such other information as may be required by said Superintendent. (*Ibid*, § 65.)

**69.** Every life insurance company organized under any law of this State, may make and enter into all manner of contracts pertaining to the business of such company, or connected with the management of the same; and any such company or association may cause itself to be wholly or partially reinsured against loss arising from any risk which it may have undertaken, and in like manner may reinsure or guarantee any other corporation against loss arising from any risk of the character mentioned in section forty-four of this act, and that shall have been or may be undertaken by such corporation, or may join with any such corporation in any such risk, and may make and enter into all manner of contracts relating to such reinsurance and joint insurance, and the terms upon which the same shall be conducted. (*Ibid*, p. 244, § 66.)

**70.** Every stockholder legally entitled to vote at any election of any life insurance company organized under the laws of this State may cast such vote by proxy, and the authority to cast such vote shall be written and not printed, and shall state the name of the person authorized to cast such vote, and the date of the meeting at which such vote shall be cast. (*Ibid*, § 67.)

**71.** No life insurance company organized or incorporated by or under the laws of this State, or of any other State of the United States, or of any foreign government, transacting the business of life insurance in this State, shall be permitted or allowed to take any other kind of risks except those connected with or appertaining to making assurance on life, and the granting, purchasing, and disposing of annuities and endowments; nor shall the business of life assurance in this State be in any wise conducted or transacted by any company which in this or any other State or country makes insurance on marine, fire, inland, or any other risks. (*Ibid*, § 68.)

**72.** Civil action may be maintained by any corporation formed under the laws of this State against any of its members or stockholders for any cause relating to the business of such company. Civil action may also be prosecuted and maintained by any member of such corporation against the corporation for losses which have accrued on any risks, if payment is withheld for more than two months after such losses shall have become due. (*Ibid*, p. 245, § 69.)

**73.** No insurance company of any kind, organized under the laws of this State, shall directly or indirectly deal or trade in any

goods, wares, merchandise, or other commodities whatsoever, except as provided in this act. (*Ibid*, § 70.)

**74.** No life insurance company organized under the laws of this State shall be permitted to purchase, hold, or convey real estate, excepting for the purposes and in the manner herein set forth, to wit:

*First.*—Such as shall be requisite and convenient for its accommodation in the transaction of its business; or,

*Second.*—Such as shall have been mortgaged in good faith by way of security for loans previously contracted for moneys due; or,

*Third.*—Such as shall have been conveyed to it in satisfaction of debts previously contracted in the course of its dealings; or,

*Fourth.*—Such as shall have been purchased at sales upon the judgments, decrees, or mortgages obtained or made for such debts. And it shall not be lawful for any company incorporated as aforesaid to purchase, hold or convey real estate in any other case, or for any other purpose; and all such real estate as may be acquired as aforesaid, and which shall not be requisite or convenient for the accommodation of such company in the convenient transaction of its business, shall be sold and disposed of within five years after such company shall have acquired absolute title to the same; and it shall not be lawful for such company to hold such real estate for a longer period than that above mentioned, unless the said company shall procure a certificate from the Superintendent of the Insurance Department that the interests of the company will suffer materially by a forced sale of such real estate, in which event the time for the sale may be extended to such time as the Superintendent of the Insurance Department shall direct in such certificate. (*Ibid*, § 71.)

**75.** Any life insurance company, formed under any law of this State, may accept any and all of the provisions hereof, and may amend its charter or articles of incorporation in the manner prescribed in chapter twenty-three of the General Statutes, of 1868, aforesaid, so as to be entitled to all the privileges and subject to all the regulations of this act; but every such amendment shall be certified by the Secretary of State, and filed with the Superintendent of Insurance in the manner hereinbefore provided respecting its charter; and when so filed, the Superintendent of the Insurance Department shall deliver to such company, under the seal of his office, a certificate of the filing of said amendment in his office. (*Ibid*, p. 246, § 72.)

**76.** Every existing company incorporated under the laws of this State for the purpose of transacting the business of life insurance, shall be subject to all the requirements and provisions of this act. (*Ibid*, § 73.)

**77.** Life insurance companies organized under any law of this State may, by the vote of a majority of its stockholders, and in compliance with the laws of this State, increase its capital stock to any amount not exceeding one million dollars, or decrease it to any amount not less than one hundred thousand dollars; *Provided*, That by so doing the previous reserve shall be in no manner impaired. (*Ibid*, § 74.)

**78.** All life insurance companies organized under the laws of this State shall hold annual meetings, at such times as may be provided by its by-laws for the election of directors, for the term and in the order following, viz.:

*First.*—One-fifth of their number for five years.

*Second.*—One-fifth of their number for four years.

*Third.*—One-fifth of their number for three years.

*Fourth.*—One-fifth of their number for two years.

*Fifth.*—One fifth of their number for one year.

And at each annual election thereafter the directors elected shall be only one-fifth the whole number, and for the term of five years, except in elections to fill vacancies, in which case the election shall be for the unexpired term. The directors shall be elected by ballot, and in all stock companies each share shall be entitled to one vote. Shares may be voted by written proxy, signed by the party holding the shares to be voted. The directors shall elect from their number, at their annual meeting, a president, vice-president, and secretary and actuary, and such other officers as they by their by-laws may designate. (*Ibid*, § 75.)

79. In case any life insurance company organized under the laws of this State shall have issued, or may hereafter issue, any policy of insurance upon the life of any person or persons for another's benefit, and such beneficiary dies during the lifetime of the person or persons whose life or lives are assured by said insurance policy or policies, then it shall be lawful for such company to receive from the person or persons whose lives are assured, an affidavit setting forth the facts in the case, and if it shall appear from such affidavit that the affiants have heretofore paid the annual premium on such policy or policies, and intended thereby to insure for the benefit of the person or persons named in such policy or policies as beneficiary, that such person or persons are dead, and that said policy or policies have not been assigned or transferred to any person or persons, and nominating or appointing some other person or persons as beneficiary, in place of the said deceased in said policy or policies named; it shall then be the duty of said insurance company to take up and cancel said policies at the request of said assured, and issue in like terms another policy or policies upon the life or lives of said insured for the benefit of the beneficiary in said affidavit nominated. (*Ibid*, p. 247, § 76.)

80. In case any life insurance company organized under the laws of this State shall have issued or shall hereafter issue, any policies of insurance upon the life of any individual, or upon the life of any person expressed to be for the benefit of any woman, whether married or unmarried, or for the benefit of minor children, or for the benefit of any invalid, aged or infirm person, whether the same be effected by themselves for themselves, or by any other person or persons in their behalf, all such policies and their reserves, or the present value thereof, shall be payable according to the terms thereof, and shall inure to the sole and separate use and benefit of the beneficiary named therein, and shall be free from the claims of the husband, or any creditor or representative of the husband, and shall also be free from the claims of the person or persons effecting such insurance, their creditors and representatives, and shall also be free from all taxes, and the claims or judgment of the creditors and representatives of the person or persons whose life or lives are so insured; but such policy of insurance, reserve or present value thereof thus exempt shall not exceed in amount a sum that may be purchased at the age of thirty years on the continuous payment life-rate, American mortality, interest four and one-half per cent., net premium five hundred dollars (\$500), and no more. (*Ibid*, p. 248, § 77, as amended by laws of 1873, p. 190, § 1.)

**81.** The provisions of this act shall not be construed so as to prevent any masonic, odd fellow, religious, or benevolent society of this State from issuing indemnity to any one against loss by death of any of its members. (*Ibid*, § 78, as amended by laws of 1875, p. 172, § 6.)

**82.** All acts and parts of acts inconsistent with the provisions of this act are hereby repealed; *Provided*, Nothing in this act shall be construed to affect the corporate existence, or the rights as such, of any corporations now existing, and heretofore organized under any general or special law of this State. (*Ibid*, § 79.)

**83.** Whenever any insurance company incorporated under the laws of any other State or country shall become liable to pay any loss to any person in this State, and shall neglect or refuse for three months after final judgment to pay the same, and all costs of suits incurred in prosecuting the claim of the insured to judgment, the said company may be perpetually enjoined from doing any business in the State until said claim and costs shall be fully paid. The proceedings to so enjoin said company shall be the same as that [those] prescribed in sections nine and ten of this act, so far as the same is [are] applicable. (*Ibid*, § 80.)

**84.** Every company doing business in this State, whether life or fire, shall, by itself or authorized agent, publish a synopsis of its last preceding annual statement made to the Insurance Superintendent of this State, in some newspaper of general circulation in the county where the said agent is doing business. Said synopsis of statement shall show the assets and liabilities of said company, and shall be published within sixty days after said company shall have made its statement as aforesaid, if said company has an agent doing business in any county in this State at such time; if not, then at any time thereafter during the year that such agent does any business in any such county. (*Laws of 1875*, p. 172, § 7.)

**85.** It shall be the duty of insurance companies to furnish to the Superintendent of Insurance a certificate from the county clerk of any county in which any piece of mortgaged property returned as a part of the security of any insurance companies [company] may be situated, containing a statement of the real value in his opinion, of the property so mortgaged, and also the last assessed value of said property. (*Ibid*, § 8.)

## MUTUAL INSURANCE COMPANIES.

**86.** That any number of persons not less than five may associate themselves together for the purpose of mutual protection against loss or damage by fire or lightning or tornado, under the provisions of this act, which property to be insured shall be classified as follows:

*First.*—To include all dwelling-houses, barns, sheds, out-buildings and cribs and their contents; farm implements, hay, grain, wool and other products; live stock, wagons, carriages, harness, household goods, wearing apparel, provisions, musical instruments and libraries, being upon farms as farm property, or in dwellings, or in accompanying out-buildings that constitute detached risks in villages, and belonging to the members.

*Second.*—To include all risks on buildings used for merchandising and manufacturing, and the goods, wares, machinery, and imple-



ments contained therein, and all other property not included in the first class. The business of each class shall be conducted separately and independently of the other, and in no case shall an assessment be made by the company or association upon the premium notes of one class to pay the losses or expenses of the other, and any company or association doing business under this act may elect to confine their business to either the first or second class, or to embrace both; and whenever any change is made in the character of their business under this act, it shall be done by resolution of the directors, which shall be filed, with the by-laws, in the office of the Secretary of State. (*Laws of 1875, p. 159, § 1.*)

**87.** Such persons so associating shall file in the office of the Superintendent of Insurance a statement signed by all the corporators, stating their purpose of forming a company for the transaction of the business of insurance, as expressed in the first section of this act, which statement shall also comprise a copy of the charter, made in accordance with the statutes of eighteen hundred and sixty-eight and the amendments thereto, and a copy of the articles of association and by-laws proposed to be adopted by them, and shall publish a notice of such intentions once in each week for at least four successive weeks in a public newspaper in the county in which the principal office of such company is proposed to be located (*Ibid, p. 160, § 2.*)

**88.** No company formed for the purpose of doing the business of fire insurance upon the mutual plan shall have power to issue policies until applications in good faith have been received for insurance, to the amount of at least fifty thousand dollars, and premium notes have been received in advance for the same. Such notes shall be negotiable and collectable for the purpose of paying any loss which may accrue, or defray expenses, as provided in the charter and by-laws of such companies. (*Ibid, § 3.*)

**89.** The premium notes taken by the company or association for the assured, in part payment of the premium, shall become a lien upon the property insured to the amount of such notes and costs and interest due thereon, and if a farm building, also upon the land thereto belonging, not exceeding one hundred and sixty acres, upon which the building shall be standing; or if in a city or town, then also upon the lot upon which said building is erected, from the date of filing in the office of the Register of Deeds in the county in which the property may be situated, an abstract giving:

*First.*—The name of the maker, date, amount, and maturity of the note.

*Second.*—The date of the expiration of the policy of insurance, with a description of the property insured.

And such premium note shall be liable to assessment by the company or association at such times and in such amounts, not exceeding in all the principal and interest of said notes, as shall be necessary to pay the losses and defray the expenses of the company. (*Ibid, § 4.*)

**90.** The members of any company or association formed under this act shall be liable to such company, or to any other person, only to an additional amount equal to the principal and interest of the premium note given when effecting insurance. (*Ibid, p. 161, § 5.*)

**91.** Suits for the collection of any assessment made upon the premium note of the insured, may be brought before a justice of the peace in the county in which the insured resides. (*Ibid, § 6.*)

**92.** The cash premiums, fees, and premium notes of any mutual insurance company shall constitute the capital of the same. (*Ibid*, § 7.)

**93.** All persons insuring upon the mutual plan, in any company organized in accordance with the provisions of this act, shall constitute its members and stockholders. No person shall be eligible to the office of director, except he hold in such company a policy in his own right, on property to the amount of at least five hundred dollars. (*Ibid*, § 8.)

**94.** The charter and by-laws to be filed by the corporation shall be examined by the Attorney-General, and if found to be in accordance with the requirements of this act, he shall certify the same to the Superintendent of Insurance; and said Superintendent of Insurance may appoint three disinterested persons, residents of the county wherein such corporation is proposed to be formed, who shall certify under oath that it has received and is in actual possession of the premium notes to the full extent required in this act: *Provided, however*, The Superintendent of Insurance may make such examination personally or by his deputy. It shall then be the duty of the Superintendent to furnish the corporation with a certificate, which shall be their authority to commence business and issue policies, and the same may be used in evidence for or against such corporation. (*Ibid*, § 9.)

**95.** The corporators, or the trustees or directors, as the case may be, of any company organized under this act, shall have power to make such by-laws, not inconsistent with the constitution or laws of this State, as may be deemed necessary for the government of its officers and members, and the conduct of its affairs. Any company organized in accordance with the provisions of this act shall have, and is hereby invested with, full power and authority to make any by-law or by-laws whereby any member of said company, failing to pay any interest or any assessment legally made on his, her, or their premium note or notes, according to the constitution and by-laws of said company, may be excluded from all benefit of insurance during all the time in which he, she, or they may be so in default; and said company shall have full power and authority to rescind or revoke any policy of insurance by them issued, whenever they shall deem it for the interest of said company so to do; *Provided*, The person whose policy is sought to be revoked is in default for payment of premiums on his, her, or their policy. (*Ibid*, p. 162, § 10.)

**96.** It shall be the duty of the president, or vice-president, and secretary of each company organized under this act, annually, on the first day of January, or within sixty days thereafter, to prepare and to deposit in the office of the Superintendent of Insurance, a statement of the condition of such company on the thirty-first day of December then next preceding, exhibiting the following facts and items, such statement to be made under oath of the secretary, president, or vice-president:

*First.*—The number of members on the thirty-first day of December of the previous year; the number of members added during the year; the number of members who have withdrawn, or whose policies have been canceled during the year, and the number of members belonging to the company.

*Second.*—The amount of property at risk on the thirty-first day of December of the previous year; the amount of risks added during

the year; the amount of risks canceled, withdrawn, or terminated during the year, and the net amount at risk by the company.

*Third.*—The amount of premium or deposit notes in force; the amount of cash actually on hand; the amount of outstanding assessments not collected; the nature and amount of all other resources; the total amount of resources.

*Fourth.*—The claims for losses due and payable; the claims for losses not matured; the claims for losses resisted; the nature and amount of all other claims due or accrued, and the total amount of liabilities.

*Fifth.*—The amount of cash premiums received during the year; the amount collected on assessments which were levied during the year; the amount collected during the year on assessments which were levied in prior years; the amount received from membership or policy fees, or from any other sources, constituting an expense to the insured; the amount received from percentage on increased or decreased insurance; the income from all other sources, and the total income.

*Sixth.*—The amount paid for losses during the year, stating the amount of same which was for losses of previous years; the amount of salaries and fees paid to officers and directors; the amount of all other expenditures during the year, and the total expenditures during the year. (*Ibid*, § 11.)

97. A copy of every such sworn statement, as filed in the office of the Superintendent of Insurance, shall be published at least twice during the month of January or February, in a newspaper printed in the county in which the principal office is situated; and the persons or officers making such sworn statement or report to be filed in the office of the Superintendent of Insurance as aforesaid, shall make and annex thereto and file therewith in the office of the Superintendent of Insurance an additional affidavit, showing that such report and statement has been published; and if, upon examination of such annual statement, or the examination of the company, hereafter provided for, it shall appear to the Superintendent of Insurance that the losses and expenses of any company chartered under this act have, during the year, exceeded the cash premiums and assessments collected to such an extent as to impair the solvency of said company, it shall be the duty of said Superintendent of Insurance to serve a notice upon the officers of such mutual company, requiring them, at the expiration of sixty days from the date of such notice, to discontinue the issuing of policies, and proceed to wind up its business, unless within that time the directors of such company shall collect assessments and pay such losses and debts. (*Ibid*, p. 163, § 12.)

98. In case any company shall continue to issue policies after the expiration of sixty days, they having failed to comply with the requirements of the Superintendent of Insurance in said notice, or if any company having failed to make their annual report to the Superintendent of Insurance at the time and in the manner herein prescribed therefor, shall thereafter issue any policy or make any insurance, it shall be the duty of the Superintendent of Insurance to notify the prosecuting attorney of the county where such company is located, whose duty it shall then be to commence legal proceedings against such officers, and enjoin the company from doing or transacting their business. (*Ibid*, p. 164, § 13.)

99. It shall be the duty of the Superintendent of Insurance,

on or before the first day of December in each year, to furnish all companies organized under this act with blanks, for the purpose of making thereon the statement hereby required to be filed, which blanks shall be used by the proper officers in making said statement, which statements shall be full and in accordance with the requirements heretofore set forth; and he may, from time to time, make such changes in the form of such statements as shall seem to him best adapted to elicit from the companies a true exhibit of their condition in respect to the several points hereinbefore mentioned. And in case the officers and directors of any company shall fail, neglect, or refuse to perform any of the duties required of them by law, or shall in any manner violate any of the provisions of this act, then, and in every such case, every officer or person so offending shall be liable to a penalty of not more than one thousand dollars nor less than five hundred dollars. (*Ibid*, § 14.)

**100.** Suits at law may be maintained by any corporation formed under this act against any of its members for any cause relating to the business of such corporation; also, suit at law may be prosecuted and maintained by any member against such corporations for claims which may have accrued, if payments are withheld more than sixty days after such claims shall have become due. (*Ibid*, § 15.)

**101.** There shall be paid to the Superintendent of Insurance, by every mutual insurance company doing business in this State, the following fees, to wit: For the filing and examination of the charter and accompanying papers required by this act of any mutual insurance company, and issuing the certificate of authority thereupon, the sum of twenty-five dollars; for filing the annual statement required, ten dollars; for every copy of a paper filed in his office, the sum of ten cents per folio. (*Ibid*, § 16.)

**102.** Any mutual insurance company organized under this act may appoint one or more agents. Such agents may be appointed by the president, vice-president, or secretary thereof, in writing, stamped with the seal of the company, and when so appointed shall be held to be the agents of such company as fully as if appointed by the board of directors in the most formal mode. (*Ibid*, p. 165, § 17.)

**103.** Nothing in the act entitled "An act to establish an insurance department in the State of Kansas, and to regulate the companies doing business therein," approved March first, eighteen hundred and seventy-one, shall be so construed as to in any manner affect the provisions of this act, or to apply to companies organized under the provisions of this act. (*Ibid*, § 18.)

**104.** All companies formed under this act shall be deemed bodies corporate and politic in fact and name, and shall be subject to all the provisions of the statute in relation to corporations so far as they are applicable. (*Ibid*, § 19.)

## ARSON AND INCENDIARISM.

**105.** Every person who shall set fire to or burn, in the night time, any dwelling-house in which there shall be at the time some human being, or who shall willfully set fire to or burn, in the night time, any boat or vessel in which there shall be at the time some human being, shall, upon conviction, be adjudged guilty of arson in the first degree. (*General Statutes*, 1868, p. 327, § 49.)



**106.** Every house, prison, jail, or other edifice, which shall have been usually occupied by persons lodging therein at night, shall be deemed a dwelling-house of any person having charge thereof, or so lodging therein; but no warehouse, barn, shed, or other outhouses shall be deemed a dwelling-house, or part of a dwelling-house, within the meaning of this section or the last section, unless the same be joined to, or immediately connected with, and part of, a dwelling-house. (*Ibid*, § 50.)

**107.** Every person who shall willfully set fire to or burn, in the day time, any inhabited dwelling-house, boat, or vessel, which, if done in the night time, would be arson in the first degree, shall, upon conviction, be adjudged guilty of arson in the second degree. (*Ibid*, § 51.)

**108.** Every person who shall willfully set fire to or burn, in the night time, any shop, warehouse, office, storehouse, or other building, not being the subject of arson in the first degree, but adjoining to, or within the curtilage of, any inhabited dwelling-house, so that such dwelling shall be endangered by such firing, shall, upon conviction, be adjudged guilty of arson in the second degree. (*Ibid*, p. 328, § 52.)

**109.** Every person who shall willfully set fire to or burn, in the night time, any building in which shall be kept or deposited at the time any records, or the papers of any public office, shall, on conviction, be adjudged guilty of arson in the second degree. (*Ibid*, § 53.)

**110.** Every person who shall willfully set fire to or burn, in the day time, any shop, warehouse, or other building, which, if done in the night time, would be arson in the second degree, shall, on conviction, be adjudged guilty of arson in the third degree. (*Ibid*, § 54.)

**111.** Every person who shall willfully set fire to or burn, in the night time, any house, building, barn, stable, boat, or vessel of another, or any house of public worship, college, academy or school-house, or building used as such, or any public building belonging to the United States or this State, or to any county, city, town or village, not the subject of arson in the first or second degree, shall, on conviction, be adjudged guilty of arson in the third degree. (*Ibid*, § 55.)

**112.** Every person who shall willfully set fire to or burn, in the night time, any brewery, distillery, grist-mill, paper-mill, fulling-mill, saw-mill, carding-machine, or other machinery for manufacturing purposes, or any building containing the same, or erected or used as a manufactory, shall, on conviction, be adjudged guilty of arson in the third degree. (*Ibid*, § 56.)

**113.** Every person who shall burn any building, boat, or vessel, or any goods, wares, or merchandise, or other chattels, which shall at the time be insured against loss or damage by fire, with intent to defraud or prejudice the insurer, whether the same be the property of such person or any other, shall be, upon conviction, adjudged guilty of arson in the third degree. (*Ibid*, § 57.)

**114.** Every person who shall, in the day time, willfully set fire to or burn any dwelling-house or other building, or any machine, or any boat or vessel, which, if done in the night time, would be arson in the third degree, shall, upon conviction, be adjudged guilty of arson in the fourth degree. (*Ibid*, p. 329, § 58.)

**115.** Every person who shall, in the day or night time, will-

fully set fire to or burn any goods, wares, merchandise, or other chattels of another, not the subject of arson in the third degree, or any stock of grain, of any kind, belonging to another, or any grain, grass, or herbage, growing or standing in the field, or any nursery or orchard of fruit trees, or any fence belonging to another, or any toll bridge or other public bridge, shall, on conviction, be adjudged guilty of arson in the fourth degree. (*Ibid*, § 59.)

**116.** Every person who shall be convicted of any degree of arson, shall be punished, by confinement to hard labor, as follows:

*First.*—In the first degree, by confinement and hard labor not less than ten years nor more than twenty-one years.

*Second.*—In the second degree, by confinement and hard labor not less than seven nor exceeding ten years.

*Third.*—In the third degree, by confinement and hard labor not less than five nor more than seven years.

*Fourth.*—In the fourth degree, by confinement and hard labor not more than four years, or by imprisonment in the county jail not less than six months. (*Ibid*, § 60.)

### EMBEZZLEMENT.

**117.** If any clerk, apprentice, or servant of any private person, or of any co-partnership, except clerks, apprentices, and servants within the age of sixteen years, or if any officer, agent, clerk, or servant of any incorporation, or any person employed in such capacity, shall embezzle or convert to his own use, or shall take, make way with, or secrete with intent to convert to his own use without the assent of his employer, any goods, rights in action, or valuable security, or effects whatsoever belonging to any person, copartnership, or corporation, which shall have come into his possession or under his care by virtue of such employment or office, he shall, upon conviction thereof, be punished in the manner prescribed by law for stealing property of the kind or value of the articles so embezzled, taken, or secreted, or if any agent shall neglect or refuse to deliver to his employer or employers on demand, any money, promissory notes, evidences of debt, or other property which may have come into his possession by virtue of such employment, after deducting his fees as attorney, charges as agent, or stipulated commission for making collection of such money, unless the same shall have been lost by means beyond his control before he had opportunity to make delivery thereof to his employer or employers, or the employer or employers have permitted him to use the same, he shall, upon conviction thereof, be punished in the manner provided in this section for unlawfully converting such money or other property to his own use. (*Laws of 1873, p. 177, § 1.*)

**118.** For General Provisions relating to Corporations see General Statutes, 1868, pp. 190-201; Laws of 1871, p. 171; Laws of 1872, pp. 238-239; Laws of 1873, pp. 137-140; Laws of 1874, pp. 86-87; Laws of Special Session, 1874, p. 7.

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# INSURANCE STATUTES OF KENTUCKY.

## INSURANCE BUREAU.

**1.** There is hereby established, in connection with the office of Auditor of Public Accounts, a bureau, to be designated the "Bureau of Insurance," which shall be charged with the enforcement of the laws heretofore passed, or which may hereafter be passed, relating to insurance. (*Laws of 1870, p. 77, § 1.*)

**2.** The Auditor shall appoint some suitable person, skilled as an insurance actuary, to take charge of the Bureau of Insurance, who shall be designated "Insurance Commissioner of the State of Kentucky," who shall hold his office until the expiration of the term for which the Auditor making the appointment shall have been elected, and until a successor has been appointed, unless sooner removed by the Auditor, with consent of the Governor. He shall not be, during his continuance in office, interested in any insurance company, except as a policy-holder. (*Ibid, § 2.*)

**3.** The Insurance Commissioner shall receive an annual salary of \$4,000. There shall also be paid the sums necessary to secure the clerical and actuarial assistance necessary to the discharge of all the duties devolving by law on the Bureau or the Commissioner. (*Ibid, § 3.*)

**4.** The State shall not be responsible for the expense of the establishment and future management of the Insurance Bureau, but the same shall be provided for and paid by the fees and allowances named in this act. (*Ibid, § 4.*)

**5.** The Commissioner may appoint a clerk to assist him in the duties of the Bureau, who shall receive a salary of \$2,000 per annum. The salaries of the Commissioner and his clerk shall be paid monthly out of the treasury of the commonwealth, out of the insurance fund, in the same manner as other salaries are paid. The Auditor shall assign other clerks to aid the Commissioner when it may become necessary. (*Ibid, p. 78, § 5.*)

**6.** The Commissioner shall appoint one of his clerks to be his deputy, who shall possess the powers and perform all the duties attached by law to the office of principal, during a vacancy in such office, and during the absence or inability of his principal. The principal Commissioner, and his deputy, and any person authorized by them to perform a special duty, shall be empowered to administer oaths in the discharge of their several duties. (*Ibid, § 6.*)

**7.** The Commissioner and his deputy, before entering on the discharge of their duties, shall take and subscribe the oath of office prescribed by the constitution and laws of this State, which shall be filed and preserved in the office of the Secretary of the State; and the Commissioner shall also execute a bond, with sufficient sureties, to be approved by the Governor, in the penal sum of \$20,000, for the faithful discharge of all the duties of his office. (*Ibid, § 7.*)

**8.** The Commissioner shall visit and examine any insurance company incorporated in this State, on requisition by five or more

persons, each of whom is a stockholder or creditor, or pecuniarily interested in such company; which requisition shall contain a statement, made under oath, by the five or more persons making it, that they believe the company to be in an unsound condition, and shall state the grounds of such belief; and also whenever he deems an examination necessary, or suspects the correctness of any annual statement, or that the affairs of any company making such statement are in an unsound condition. At such times he shall have access to its books and papers, and shall thoroughly inspect and examine all its affairs, and make inquiries such as are necessary to ascertain its condition and ability to fulfill its engagements, and whether it has complied with all the provisions of law applicable to its transaction. (*Ibid*, § 8.)

9. He may, whenever he deems it necessary, or when requested, as in the preceding section, examine into the affairs and condition of any insurance company doing business in this State, not organized under the laws of this State, or cause such examination to be made by some person not connected with any insurance company, appointed by him; and whenever it shall appear to the satisfaction of the Commissioner that the affairs of any such company are in an unsound condition, or not conformable to any standard adopted by this Commonwealth, or if any such company shall refuse to permit the examination herein designated, the Auditor, at his request, shall revoke all certificates granted in behalf of such company, and shall cause a notification thereof to be published in some newspaper of general circulation published in this State; and all agents of such company are, after such notice, required to discontinue the issuing or delivering of any new policy, or the renewal of any previously issued, or the effecting in any form of any new insurance for or on account of such company, under a penalty of five hundred dollars for each offense. (*Ibid*, § 9.)

10. He may summon and examine, under oath, the directors, officers, and agents of any insurance company, and such other person as he may think proper, in relation to the affairs, transactions, and condition of said company. Whoever, without justifiable cause, refuses to appear and testify when so required, or obstructs the Commissioner in the discharge of his duty, shall, for each offense, be punished by a fine not exceeding one thousand dollars, or by imprisonment not exceeding one year; and if the directors, officers, or agents of any insurance company not incorporated by the Commonwealth of Kentucky, but transacting business therein, shall refuse to appear and testify when so required, the Auditor shall, on requisition of the Insurance Commissioner, revoke the certificate of authority and license of such company and its agents. (*Ibid*, p. 79, § 10.)

11. When, in his opinion, an insurance company, its officers, or agents, have violated any law of this State relative to such company, the Commissioner shall forthwith report the facts, with the testimony reduced to writing, and signed by the witness, upon which his opinion is founded, to the Auditor, who shall give notice of the same to the Attorney-General, whose duty it shall be at once to prosecute such company, officer, or agent, therefor; *Provided*, That, upon the examination of the testimony, he shall deem such prosecution proper. (*Ibid*, § 11.)

12. He shall annually, in September, furnish to the insurance companies of this State, and to the agents of insurance companies

not incorporated in this State, and doing business therein, so far as their agents are known to him, two or more printed copies of the forms of annual returns to be made to him by all such companies. (*Ibid*, § 12.)

**13.** Upon some day in each year designated by him, the Commissioner shall calculate the existing values of all outstanding policies of life insurance in companies authorized to make insurance on lives in this State, according to the standard designated and established by the laws of this State; *Provided, however*, That if any company incorporated by any State where a regularly organized Insurance Bureau or department exists, shall furnish a certificate under seal, in due form, of the Insurance Commissioner or Superintendent, setting forth the existing values of all its outstanding policies, such certificate shall be received as evidence by the Insurance Commissioner of this commonwealth, and no valuation of the policies of such company shall be made by him. The cost of making every valuation under this section shall be assessed on the company whose policies are so valued. (*Ibid*, § 13.)

**14.** The Commissioner shall annually, at the earliest practicable date, after the returns are received from the several insurance companies doing business in this State, make a report to the Auditor of their condition, with such suggestions as he deems expedient, and shall include therein an aggregate of the calculated values of all outstanding policies of life insurance ascertained by him, in the manner prescribed in the preceding section; and in connection therewith, shall prepare an abstract of all returns and statements made to him by such insurance companies and agents. One thousand copies of such reports shall be published by the State, subject to the order of the Auditor, and at the expense of the Insurance Bureau. The Auditor shall place the same before the Legislature, with an account of the receipts and expenses of the Bureau. (*Ibid*, p. 80, § 14.)

**15.** The Commissioner shall keep and preserve, in a permanent form, a full report of his proceedings, including a concise statement of the condition of each company visited or examined by him. (*Ibid*, § 15.)

**16.** The records of the said Insurance Bureau shall, at all times, be open to the inspection of the public, subject to such rules as may be made by the Commissioner for their safe keeping, free from any charge whatever; and he shall, on demand, furnish certified copies of any paper, report, or document on file in his office, to any person requesting the same, upon payment of the fees allowed by law. (*Ibid*, § 16.)

**17.** The said Commissioner shall, immediately upon obtaining a suitable office, which the Auditor shall provide and cause to be furnished and supplied with a suitable fire-proof vault and burglar-proof safe, apply to the Secretary of State, Auditor, and Treasurer, and any and all other persons or officers, for all books, papers, documents, and records pertaining to the subject of insurance now on file or kept in their offices, and shall deposit and safely keep the same in his office. In case any of the records are contained in books devoted to other purposes, the officer having charge thereof shall deliver to him a certified copy thereof; and every Commissioner shall, upon retiring from office, deliver to his qualified successor the possession of his office, and all furniture, papers, and property belonging to the same. (*Ibid*, § 17.)



**18.** The Auditor, with the approval of the Governor, shall devise a seal, with suitable inscription, for the Bureau of Insurance; a description of which, with a certificate of approval by the Governor, together with an impression thereof, shall be filed in the office of the Secretary of State; which seal shall thereupon be and become the seal of the Insurance Bureau, and the same may be renewed whenever necessary. Every certificate, assignment, or conveyance, executed by the Auditor or the Commissioner, relating to the business of insurance or an insurance company, in pursuance of authority conferred by law, and sealed with said seal of office, shall be received as evidence, and may be recorded in the proper recording office, in the same manner and with the same effect as a deed regularly acknowledged or proved before an officer authorized by law to take the proof or acknowledgment of deeds; and all copies of papers in the office of said Bureau, certified by the Auditor or Insurance Commissioner, and authenticated by the said seal, shall in all cases be evidence equally and in like manner with the original. (*Ibid*, p. 81, § 18.)

**19.** There shall be collected and paid to the Auditor and Commissioner the following fees and allowances, viz.:

To the Auditor for ex-officio services to be rendered by him:	
For filing copy of charter or other articles of association or deed of settlement, not before filed, and keeping the same.....	\$10 00
For license to each agent of fire companies, and certificate of seal of office for each.....	5 00
And for license to each agent of life companies, and certificate of seal of office for each.....	10 00
To the Commissioner, for the use of the Treasury, to defray expenses of the Bureau:	
For filing in his office original charter, deed of settlement, or other articles of association, each.....	40 00
For filing declaration of intention to form an insurance company.....	50 00
For filing annual statement of condition, etc., required to be made in forms furnished by him, as per section twelve, each.....	40 00
For any additional or supplemental statement for the same year.....	25 00
For seal of office with certificate.....	1 00
For copies of any paper on file or deposit with the Treasurer or in his office, 20 cents per folio.	
For original deposit of securities required by law.....	10 00
For any change of securities in the aggregate.....	1 00
For cost of making valuations under section thirteen, not to exceed three cents on every one thousand dollars of insurance effected.	

And the said Commissioner is authorized to assess an equal amount upon each insurance company doing business in this commonwealth to provide for any deficiency for defraying the expenses of the Bureau. (*Ibid*, § 19.)

**20.** In addition to the fees allowed to the Auditor and Commissioner by the nin[eteen]th section of an act to establish an Insurance Bureau, the Treasurer shall be allowed annually the sum of six hundred dollars for the services required of him by an act for the incorporation and regulation of life insurance companies, to be

paid in the same manner and out of the same fund which the Insurance Commissioner is paid. (*Ibid*, p. 90, § 1.)

## INSURANCE COMPANIES OTHER THAN LIFE.

**21.** That hereafter any number of persons, not less than twelve, may associate to form an insurance company for any other purpose than life insurance; they shall publish a notice of such intention once in each week for at least four weeks, in a public newspaper in the county in which such insurance company is proposed to be located, or published in this commonwealth, and having general circulation in said county, and shall, also, under their hands and seals, make a certificate specifying the name assumed by such company and by which it shall be known, the object for which said company shall be formed, the amount of its proposed capital stock, and the place where the principal office of said company shall be located, which certificate shall be acknowledged, certified, and forwarded to the Auditor, who shall submit the same to the Attorney-General for examination; and if found by him to be in accordance with the provisions of this act, and not inconsistent with the constitution and laws of this State and of the United States, he shall certify the same and deliver it back to the said Auditor, who shall have the right to reject any name or title of any company applied for, when he shall deem the name too similar to one already appropriated, or likely to mislead the public. For the examination provided for in this section, the Attorney-General shall be entitled to a fee of ten dollars, to be paid by the corporators. (*Laws of 1870, p. 42, § 1.*)

**22.** Upon the approval of said certificate by the Attorney-General and the Auditor, the said Auditor shall cause it to be recorded in a book to be kept for the purpose, in the office of the Bureau of Insurance; and said persons, when incorporated, and having procured the certificate of the Insurance Commissioner of this State that they have, in all respects, complied with the provisions of this act, are hereby authorized to carry on the business of insurance, as named in such certificate of incorporation; and by the name and style provided therein, shall be deemed a body corporate, with succession; they and their associates, successors, and assigns, to have the same general corporate powers, and be subject to all the obligations and restrictions of this act, and of the general laws of this commonwealth. (*Ibid*, p. 43, § 2.)

**23.** No joint stock company shall be incorporated under this act with a smaller capital than one hundred thousand dollars nor more than one million dollars, as may be specified in the certificate of incorporation, which stock shall be divided into shares of one hundred dollars each, nor shall any company, on the plan of mutual insurance, commence business in this State until agreements have been entered into for insurance with at least two hundred applicants, the premiums on which shall amount to not less than one hundred thousand dollars, of which at least fifty thousand dollars shall have been paid in cash, and notes of solvent parties, founded on actual and *bona fide* applications for assurance, shall have been received for the remainder. No one of the notes received as aforesaid shall amount to more than five hundred dollars, and no two shall be given for the same risk, or be made by the same person or

firm, except where the whole amount of such notes shall not exceed five hundred dollars; nor shall any note be represented as capital stock unless a policy be issued upon the same within thirty days after the organization of the company, upon a risk which shall be for no shorter period than twelve months. Each of said notes shall be payable in part or in whole, at any time when the directors shall deem the same requisite for the payment of losses by fire or inland navigation, and such incidental expenses as may be necessary for transacting the business of said company. And no note shall be accepted as part of such capital stock, unless the same shall be accompanied by a certificate of a justice of the peace of the precinct where the person making such note shall reside, that the person making the same is, in his opinion, pecuniarily good and responsible for the same; and no such note shall be surrendered during the life of the policy for which it was given. (*Ibid*, § 3.)

**21.** Having published the notice and filed publisher's proof of such publication with the Auditor, together with the certificate as required by the first section of this act, the persons named in the certificate of incorporation, or a majority of them, shall be commissioners to open books for the subscription of stock in the company, at such times and places as they shall deem convenient and proper, and shall keep the same open until the full amount specified in the certificate is subscribed; or, in case the business of such company is proposed to be conducted on the plan of mutual insurance, then open books to receive propositions and enter into agreements in the manner and to the extent specified in the third section of this act. (*Ibid*, p. 44, § 4.)

**25.** The affairs of any company organized under this act shall be managed by not more than twenty-one nor less than five directors, all of whom shall be stockholders or members, as the case may be. Within one month after the subscription books shall have been filed, a majority of the subscribers shall hold a meeting for the election of directors, each share entitling the holder thereof to one vote; and the directors then elected shall continue in office until the first or third Monday in January thereafter, as the by-laws of the company may direct, and until others have been chosen to succeed them in the trust, and have accepted the same. (*Ibid*, § 5.)

**26.** It shall be lawful for any insurance company organized under this act, or incorporated under any law of this State, to invest its capital and the funds accumulated in the course of its business, or any part thereof, in bonds and mortgages, or deeds of trust on unincumberd real estate within the State of Kentucky, worth fifty per cent. more than the sum loaned thereon, exclusive of buildings, unless such buildings are insured, and the policy transferred to said company, and continued in force so long as the loan continues; and also in the bonds of this State, or the bonds of the United States; and also in the bonds of any county or incorporated city or railroad company in this State, authorized to be issued by the legislature, and to lend the same, or any part thereof, on the security of such bonds, or of bonds and mortgages and deeds of trust, as aforesaid; and to change and reinvest the same as occasion may, from time to time, require; *Provided always*, That the current market value of such bonds, or other evidences of indebtedness, shall be at all times, during the continuance of such loans, at least twenty per cent. more than the sum loaned thereon: *And provided*, That in all investments made upon mortgage securities, the evi-

dence of the debt shall accompany the mortgage or deed of trust. (*Ibid*, § 6.)

**27.** Upon receiving notification that the proceedings required by the sections foregoing have been had, the Commissioner of Insurance shall cause an examination to be made, and certified under oath that the capital herein required of the company named, according to the nature of the business proposed to be transacted by such company, has been paid in, and is possessed by it in money, or in such bonds and mortgages as are required by the sixth section of this act; or if a mutual company, that it has received, and is in actual possession of, the capital, premiums, or *bona fide* engagements of insurance, or other securities, as the case may be, to the extent and value required by the sixth section of this act; and the name and residence of the maker of each premium note forming part of the capital, and the amount of such note, shall be returned to the said Commissioner; and the corporators or officers of such company shall be required to certify, under oath, that the capital exhibited to those persons is *bona fide* property of the company. Such certificates shall be filed in the office of the Insurance Commissioner, who shall thereupon deliver to such company a certified copy of said certificates, under the seal of the Bureau, which, on being placed on record in the office of the clerk of the county court where the company is to be located, by the said clerk, in a book provided for that purpose by him, shall be their authority to commence business and issue policies; and such certified copy of said certificates may be used in evidence for or against said company, with the same effect as the originals. (*Ibid*, p. 45, § 7.)

**28.** It shall be lawful for any company organized under this act, first, to insure houses, buildings, and all other kinds of property, against loss or damage by fire, in and out of the State; and to make all kinds of insurance on goods, merchandise, and other property, in the course of transportation, whether on land or water, or on any vessel or boat, wherever the same may be; second, to make insurance upon the health of individuals, and against personal injury, disablement, or death, resulting from traveling or general accidents by land or water; third, to receive on deposit and insure the safe-keeping of books, papers, moneys, stocks, bonds, and all kinds of personal property; fourth, to insure horses, cattle, and other live stock, against loss or damage by accident, theft, or death, or any unknown or contingent event whatever, which may be the subject of legal insurance; and to cause itself to be insured against any loss or risk it may have incurred in the course of its business, and upon the interest which it may have in any property by means of any loan or loans which it may have made on mortgage, and generally to do and perform all other matters and things proper to promote these objects; *Provided*, That no company shall be organized to issue policies of insurance for more than one of the above four mentioned purposes; and no company that shall have been organized for either of said purposes, shall issue policies of insurance for any other; and no company organized under this act, or transacting business in this State, shall expose itself to loss on any one risk or hazard, to an amount exceeding ten per cent. on its paid-up capital, unless the excess shall be reinsured by the same in some good and reliable company. (*Ibid*, § 8.)

**29.** The annual meeting for the election of directors shall be holden on the first or third Monday in January, and called meetings



at such times as the by-laws of the company may direct; *Provided, however,* That if, for any cause, the stockholders shall fail to elect directors at any annual meeting, they may hold a special meeting on some subsequent day for the purpose, by giving notice thereof thirty days in some newspaper in general circulation in the county where the principal office of the company shall be kept; and the directors chosen at any such annual or special meeting shall continue in office until the next annual meeting, and until their successors duly elected shall have accepted. (*Ibid*, p. 46, § 9.)

**30.** The directors shall choose a president from their own number, and shall fill all vacancies that may arise in the board or in the presidency thereof; and the board of directors thus constituted, or a majority of them, when convened at the office of the company, shall be competent to exercise all the powers vested in them by this act. (*Ibid*, § 10.)

**31.** The directors of any such company shall have power to appoint a secretary, and any other officers or agents necessary for transacting the business of the company, paying such salaries, and taking such securities as they may judge reasonable; they may ordain and establish by-laws and regulations not inconsistent with this act, or with the constitution and laws of this State and of the United States, as shall appear to them necessary for regulating and conducting the business of the company; and it shall be their duty to keep full and correct entries of their transactions, which shall at all times be open to the inspection of the stockholders and the Insurance Commissioner of this State. (*Ibid*, § 11.)

**32.** All policies or contracts of insurance made or entered into by the company, may be made, either with or without the seal thereof; they shall be subscribed by the president or such other officer as may be designated by the directors for that purpose, and shall be attested by the secretary, and being so subscribed and attested, they shall be obligatory on the company. (*Ibid*, p. 47, § 12.)

**33.** Transfers of stock may be made by any shareholder, or his legal representative, subject to such restrictions as the directors shall, from time to time, make and establish in their by-laws, except as provided in sections thirty and thirty-one of this act. (*Ibid*, § 13.)

**34.** That whenever any company organized under this act, with less than the maximum capital limited in section three, shall, in the opinion of the directors thereof, require an increased amount of capital, they shall, if authorized by the holders of a majority of the stock, file with the Commissioner a certificate setting forth the amount of such desired increase, not exceeding said maximum, and thereafter such company shall be entitled to have the increased amount of capital fixed by said certificate; and the examination of securities composing the capital stock thus increased shall be made in the same manner as is provided by section seven of this act, for capital stock originally paid in. (*Ibid*, § 14.)

**35.** It shall not be lawful for the directors, trustees, or managers of any insurance company to make any dividend, except from the surplus profits arising from their business; and in estimating such profits there shall be reserved therefrom a sum equal to the amount received for premiums on unexpired risks and policies, which are hereby declared to be unearned premiums; and, also, there shall be reserved all sums due the corporation on bonds and mortgages, bonds and book accounts, or other securities, of which

no part of the principal or interest thereon has been paid during the last year, and for which foreclosure or suit has not been commenced for collection, or which, after judgment obtained thereon, shall have remained more than two years unsatisfied, and on which interest shall not have been paid; and, also, there shall be reserved all interest due or accrued, and remaining unpaid. Any dividend made contrary to these provisions shall subject the company making the same to a forfeiture of its charter, to be enforced by a proceeding in the nature of a *quo warranto*, which shall be prosecuted by the attorney for the commonwealth in any county in which said company has an office or transacts business. (*Ibid*, § 15.)

**36.** No company organized under this act shall purchase, hold, or convey real estate, excepting for the purposes and in the manner herein set forth, to wit:

1. Such as shall be requisite for its convenient accommodation in the transaction of its business; or,

2. Such as shall have been mortgaged to it in good faith, or conveyed by deed of trust, by way of security for loans previously contracted, or for money due; or,

3. Such as shall have been conveyed to it in satisfaction of debts previously contracted in their legitimate business, or for money due; or,

4. Such as shall have been purchased at sales upon judgment, decrees, or mortgages, or deed of trust obtained or made for such debts; and it shall not be lawful for any such company to purchase, hold, or convey real estate in any other case, or for any other purpose; and all such real estate as may be acquired as aforesaid, and which shall not be necessary for the accommodation of such company in the transaction of its business, shall be sold and disposed of within five years after such company shall have acquired title thereto, unless the company shall procure a certificate from the Commissioner that the interests of the company will suffer materially by a forced sale thereof, in which event the sale may be postponed for such period as the said Commissioner shall direct in said certificate. (*Ibid*, p. 48, § 16.)

**37.** All notes deposited with any mutual insurance company at the time of its organization, as provided in section three, shall remain as security for all losses and claims until the accumulation of the profits, invested as required by the sixth section of this act, shall equal the amount of cash capital required to be possessed by stock companies organized under this act, the liability of each note decreasing proportionately as the profits are accumulated; but any note which may have been deposited with any mutual insurance company, subsequent to its organization, in addition to the cash premium on any insurance effected with such company, may, at the expiration of the time of such insurance, be relinquished and given up to the maker thereof, or his representatives, upon his paying his proportion of losses and expenses which may have accrued thereon during such term. The directors or trustees of any such company shall have the right to determine the amount of the note to be given in addition to the cash premium by any person insured in such company; but in no case shall the note be more than four times the whole amount of the cash premium. And every person effecting insurance in any mutual company, and also their heirs, executors, administrators, and assigns continuing to be so insured,

shall thereby become members of said corporation during the period of insurance, and shall be bound to pay for losses and such necessary expenses as aforesaid, accruing in and to said company, in proportion to the amount of his deposit note or notes. The directors shall, as often as they deem necessary, after receiving notice of any loss or damage by fire sustained by any member, and ascertaining the same, or after the rendition of any judgment against said company for loss or damage, settle and determine the sums to be paid by the several members thereof as their respective portion of such loss, and publish the same in such manner as they shall see fit, or as the by-laws shall have prescribed; and the sum to be paid by each member shall always be in proportion to the original amount of his deposit note or notes, and shall be paid to the officers of the company within thirty days next after the publication of said notice. And if any member shall, for the space of thirty days next after the publication of said notice, and after personal demand for payment shall have been made, neglect or refuse to pay the sum assessed upon him as his proportion of any loss as aforesaid, in such case the directors may sue for and recover the whole amount of his deposit note or notes, with cost of suit; but execution shall only issue for assessments and costs as they accrue, and every such execution shall be accompanied by a list of losses for which the assessment is made. If the whole amount of deposit notes shall be insufficient to pay the loss occasioned by any fire or fires, in such case the sufferers insured by the said company shall receive, towards making good their respective losses, a proportional share of the whole amount of said notes, according to the sums by them respectively insured; but no member shall ever be required to pay, for any loss occasioned by fire or inland navigation, more than the whole amount of his deposit note. (*Ibid*, § 17.)

**38.** Every insurance company hereafter organized as provided in this act, shall, if it be a mutual company, embody the word "mutual" in its title, which shall appear upon the first page of every policy and renewal receipt; and every company doing business as a cash stock company shall, upon the face of its policy, in some suitable manner, express that such policy is a stock policy. Nor shall any company transact the business of insurance in this commonwealth on both the stock and mutual plans. (*Ibid*, p. 49, § 18.)

**39.** It shall be the duty of the president or vice-president and secretary of each company organized under this act, or incorporated under any law of this State, annually, on the tenth day of January, or within one month thereafter, to prepare, under oath, and deposit in the office of the Bureau of Insurance, a statement of the condition of such company on the thirty-first day of December then next preceding, exhibiting the following facts and items, in the following form, namely:

*First.*—The amount of the capital stock of the company.

*Second.*—The property or assets held by the company, specifying:

1. The value, as nearly as may be, and the location, of the real estate held by such company.

2. The amount of cash on hand and deposited in banks to the credit of the company, specifying in what bank the same is deposited.

3. The amount of cash in the hands of agents and in course of transmission.

4. The amount of loans secured by bonds and mortgages, or deeds of trust, constituting the first lien on real estate, on which there shall be less than one year's interest due or owing.

5. The amount of loans on which interest shall not have been paid within one year previous to such statement, and how secured.

6. The amount due the company on which judgments have been obtained.

7. The amount of stocks or bonds of this State, of the United States, of any incorporated city of this State, and of any other stocks owned by the company, specifying the amount, number of shares, and par and market value of each kind of stock or bonds.

8. The amount of bonds, mortgages, and stocks held thereby as collateral security for loans, with the amount loaned on each kind of stock or bonds, their par value and market value.

9. The amount of assessments on stock or premium notes, paid and unpaid.

10. The amount of interest actually due and unpaid.

11. The amount of premium notes on which policies are issued.

*Third.*—The liabilities of such company, specifying:

1. The amount of losses due and yet unpaid, and how much in this State.

2. The amount of claims for losses resisted by the company, and what part, if any, in this State.

3. The amount of losses incurred during the year, including those claimed and not yet due, and of those reported to the company upon which no action has been taken, and how much thereof in this State.

4. The amount of dividends declared and due and remaining unpaid.

5. The amount of dividends, either cash or scrip, declared but not yet due.

6. The amount of money borrowed and security given for the payment thereof.

7. The amount of all other existing claims against the company.

*Fourth.*—The income of the company during the preceding year, specifying:

1. The amount of cash premiums received, designating the amount received in this State.

2. The amount of notes received for premiums, designating amount on business in this State.

3. The amount of interest money received.

4. The amount of income received from other sources.

*Fifth.*—The expenditures during the preceding year, specifying:

1. The amount of losses paid during the year, stating how much of the same accrued prior, and how much subsequent, to the date of the preceding statement, and the amount at which losses were estimated in such preceding statement, and how much thereof occurred in this State.

2. The amount of dividends paid during the year.

3. The amount of expenses paid during the year, including commissions and fees to agents, and salaries to officers of the company, specifying in detail each item.



4. The amount paid in taxes.

5. The amount of all other payments and expenditures.

6. A balance sheet of the business of the company, taking as the basis the net assets of the company on the 31st day of December of the year preceeding that for which the statement is made, which annual statement shall be brought down to the 31st December next preceeding that in which the statement is required to be returned. (*Ibid*, p. 50, § 19.)

**40.** The Insurance Commissioner is hereby authorized and empowered to address any inquiries to the officers of any insurance company, in relation to its doings and condition, or any other matter connected with its transactions; and it shall be the duty of any company so addressed to promptly reply, in writing, verified by the oath of oath of its secretary or other chief officer, to any such inquiries. (*Ibid*, p. 51, § 20.)

**41.** The statement of any company, the capital of which is composed, in whole or in part, of notes, shall, in addition to the foregoing, exhibit the amount of notes originally forming the capital, and also what proportion of said notes is still held by such company and considered capital. Every insurance company, organized under any law of this State, failing to make and deposit such statement, or to reply to any inquiry of the said Commissioner, shall be subject to a penalty of five hundred dollars; and an additional five hundred dollars for every month that such company shall continue thereafter to transact any business of insurance. (*Ibid*, p. 52, § 21.)

**42.** The Insurance Commissioner is hereby authorized to amend and revise the form of annual statement hereinbefore prescribed, and to propose such additional inquiries as are necessary to elicit a full exhibit of the business and standing of the various insurance companies doing business in this Commonwealth. (*Ibid*, § 22.)

**43.** The Commissioner may extend the time hereinbefore prescribed for filing annual statement in favor of any company for good cause shown, but not more than sixty days next after the limit hereinbefore prescribed for filing the same. (*Ibid*, § 23.)

**44.** It shall not be lawful for any insurance company, association, or partnership, organized or associated for any purposes specified in this act, incorporated by or organized under the laws of any other State of the United States, or any foreign government or Government of the United States, directly or indirectly, to take risks or transact any business of insurance in this State, unless possessed of the amount of one hundred and fifty thousand dollars of actual capital paid up; and any such company desiring to transact any such business as aforesaid, by an agent or agents in this State, shall file with the Commissioner a written instrument, duly signed and sealed, authorizing any agent or agents of such company to acknowledge service of process for and in behalf of such company in this State, consenting that service of process, mesne or final, upon any such agent, shall be taken and held to be as valid as if served upon the company according to the laws of this or any other State, and waiving all claim or writ of error by reason of such acknowledgment of service; and service of process upon any such agent in any county of this State shall be deemed good and valid, and authorize trial of the cause in the court whence such process issued. It shall be the duty of the Clerk of the Court, in which suit may

be brought against any such insurance company, at the commencement of the action, to place in the post office a copy of the summons or other process which may be issued in the cause, directed to the company at the place of the location of its principal office, postage paid; and he shall make a note or memorandum thereof on the papers of the suit, and tax the costs, postage included, as other costs of the suit; *Provided*, That such notification by the clerk shall not affect the time of the trial of the cause. If any such insurance company shall, without the consent of the other parties to any suit or proceeding against it, brought or to be brought in any of the courts of this Commonwealth, remove the said suit or proceeding into any Federal Court, or if such company shall hereafter institute any suit or proceeding against any citizen of this Commonwealth in any Federal Court, it shall be the duty of the Auditor forthwith to revoke all authority to such company and all its agents to do business in this Commonwealth, and to publish such revocation in some newspaper published in this Commonwealth. In case any such insurance company shall cease to transact business in this State, according to the laws thereof, the agents last designated, or acting as such for such corporation, shall be deemed to continue agents for such corporation for the purpose of serving process for commencing actions upon any policy or liability issued or contracted while such corporation transacted business in this State; and they shall also file a certified copy of their charter or deed of settlement, unless heretofore filed, together with a statement, to be made annually under the oath of the president or vice president, or other chief officer, and the secretary of the company for which he or they may act, in the same manner and form required from companies organized under the laws of this State, as per section nineteen; also a copy of the last annual report, if any made under any law of the State by which such company was incorporated; and no agent shall be allowed to transact business for any company whose capital is impaired to the extent of twenty per cent. thereof, while such deficiency shall continue, unless said deficiency shall be repaired within sixty days. And any company incorporated by or organized under any foreign government shall file with the Commissioner the certificate of the Auditor, Comptroller, or other chief financial officer of some other State of the United States, under his hand and official seal, that he holds on deposit, and in trust for the benefit of all the policy-holders of such company in the United States, securities in which it is authorized to invest its capital stock by the laws of the State in which such deposit is made, or in which similar companies in this State may, by law, invest their capital and accumulations, worth at least two hundred thousand dollars, and which shall be increased in case of any depreciation in their value. But nothing herein contained shall be construed to invalidate the agency of any such company, by reason of such company having, from time to time, exchanged the securities so deposited with such financial officer for other and similar securities, or by reason of such company having drawn its interest and dividends, from time to time, for such stocks and securities; *Provided*, That companies organized under the laws of any foreign government, depositing the amount of securities aforesaid with the Auditor of this State, who shall receive the same in his official capacity, and producing and filing a certificate thereof in the manner provided by this section, shall be held to have complied with the requirements of this section,

if such certificate shall state that the aforesaid deposit is for the benefit and protection of its policy holders in the United States. (*Ibid*, § 24.)

**45.** It shall not be lawful for any agent of any insurance company not incorporated by the laws of this State to do business of insurance in this State, without first obtaining license from the Auditor of Public Accounts. Before the Auditor shall issue such license to any such agent, every such company or corporation shall furnish to him the certificate of the Commissioner of Insurance that such company has fully complied with the laws of this State respecting it, and has the required capital not impaired beyond the designated limit, and is in a sound and solvent condition; whereupon the Auditor shall furnish to such agents as the company directs a copy of the Commissioner's certificate, to be prepared by the Bureau of Insurance, and licenses to transact the business of insurance as agents for said company. (*Ibid*, p. 54, § 25.)

**46.** Licenses to agents must be renewed annually, in the same manner as original licenses were issued, upon the certificate of the Commissioner that the company represented by the agent has fully complied with the law, and maintains its required capital. The annual statements required in preceding section may, after the first, be filed within the times prescribed for filing similar statements by the companies of this State. (*Ibid*, § 26.)

**47.** Any violation of the provisions of the foregoing sections relating to foreign companies, or companies of other States or of the United States, shall subject the party violating to a penalty of five hundred dollars for each violation, and of the additional sum of one hundred dollars for each month during which any such agent shall neglect to file such affidavits and statements as are herein required. Every agent of any insurance company shall, in all advertisements of such agency, publish the location of the company, giving the name of the city, town, or village in which the company is located, and the State or Government under the laws of which it is organized. The term agent or agents, used in the foregoing sections, shall include an acknowledged agent or surveyor, or any other person or persons, who shall, in any manner, directly or indirectly, aid in transacting the insurance business of any insurance company not incorporated by the laws of this State. The provisions of the foregoing sections shall apply to all foreign companies, partnerships, associations, and individuals, whether incorporated or not. (*Ibid*, § 27.)

**48.** In case of knowing and willful neglect or refusal by any insurance company to make such annual statement, as aforesaid, whose duty it shall be to make such statement, shall be subject to the same penalties provided by law in case of the failure of any insurance company, organized under the laws of this State, to make an annual statement as now provided by law; and, in addition thereto, shall forfeit the right to do business in this State till such statement is made and the law complied with. (*Ibid*, p. 55, § 28.)

**49.** It shall be the duty of the Insurance Commissioner, by himself or his deputy, or whenever he shall deem it expedient so to do, at his option, to appoint one or more persons, not officers, agents, or employees of any insurance company, who, before entering upon the discharge of the duty, shall take an oath to perform faithfully and impartially the business with which they are charged,

to examine into the affairs of any insurance company incorporated in this State, or doing business by its agents in this State; and it shall be the duty of the officers or agents of such company doing business in this State to cause their books to be opened for the inspection of the Commissioner or his deputy, or to the person or persons so appointed, and otherwise to facilitate such examination so far as it may be in their power to do; and for that purpose the said Commissioner, or person or persons so appointed by him, shall have power to examine, under oath, the officers and agents of any company relative to the business of said company; and whenever the said Commissioner shall deem it for the interest of the public so to do, he shall publish the result of such investigation in one or more papers of this State; and whenever it shall appear to the Commissioner, from such examination, that the assets of any company incorporated in this State are reduced more than twenty per cent. below the capital stock required by this act, or its charter, after reserving fifty per cent. of the amount received for premiums on any paid annual, term, or short-risk policies, which are hereby declared unearned premiums, he may direct the officers thereof to require the stockholders to pay in the amount of such deficiency within such period as he may designate in such requisition, not exceeding sixty days, and in default thereof he shall communicate the fact to the Attorney-General, whose duty it shall then become to apply to any circuit or chancery court for an order requiring them to show cause why the business of such company should not be closed, and the court shall thereupon proceed to hear the allegations and proofs of the respective parties; and in case it shall appear to the satisfaction of said court that the assets and funds of said company are not sufficient, as aforesaid, or that the interests of the public so require, the said court shall decree a dissolution of said company and distribution of its effects upon equitable principles. The court shall have power to refer the application of the Attorney-General to a referee, to inquire into and report upon the facts stated therein. (*Ibid*, § 29.)

**50.** Any company receiving the aforesaid requisition from the said Commissioner shall forthwith call upon its stockholders for such amounts as will make its capital equal to the amount fixed by the charter of said company; and in case any stockholder of such company shall refuse or neglect to pay the amounts so called for after notice personally given or by advertisement, in such time and manner as the said Commissioner shall approve, it shall be lawful for the said company to require the return of the original certificate of stock held by such stockholder, and in lieu thereof to issue new certificates for such number of shares as the said stockholder may be entitled to, in the proportion that the ascertained value of the funds of the said company may be found to bear the original capital of the said company; the value of such shares for which new certificates shall be issued to be ascertained under the direction of the said Commissioner, and the company paying for the fractional parts of shares; and it shall be lawful for the directors of such company to create new stock and dispose of the same, and to issue new certificates therefor, to an amount sufficient to make up the original capital of said company. And in the event of any additional losses accruing upon new risks, taken after the expiration of the period limited by the said Commissioner in the aforesaid requisition for the filling up of the deficiency in the capital of such company, and



before said deficiency shall have been made up, the directors shall be individually liable to the extent thereof. (*Ibid*, p. 56, § 30.)

**51.** If, upon such examination, it shall appear to the said Commissioner that the assets of any company chartered on the plan of mutual insurance under this act are insufficient to justify the continuance of such company in business, it shall be his duty to proceed in relation to such company in the same manner as herein required in regard to joint stock companies; and the trustees or directors of such company are hereby made personally liable for any losses which may be sustained upon risks taken after the expiration of the period limited by the said Commissioner for filling up the deficiency in the capital, and before such deficiency shall have been made up. Any transfer of the stock of any company organized under this act, made during the pending of any such investigation, shall not release the party making the transfer from his liability for losses which may have accrued previous to the transfer. (*Ibid*, p. 57, § 31.)

**52.** The Insurance Commissioner shall be authorized to examine into the condition and affairs of any insurance company, as provided for in this act, doing business in this State, not organized under the laws of this State, or cause such examination to be made by some person appointed by him; and whenever it shall appear to the satisfaction of said Commissioner that the affairs of any such company are in an unsound condition, he shall notify the said Auditor, who shall revoke the certificates granted in behalf of such company, and shall cause a notification thereof to be published in one or more newspapers of general circulation, and to be mailed to the agents licensed by the Auditor; and the agent or agents of such company are, after such notice, required to discontinue the issuing of any new policy, or the renewal of any previously issued; and every agent or other person, who shall willfully continue, in any manner, to aid or engage in issuing policies, or making contracts for any such company, shall be liable to indictment in a court of competent jurisdiction; and, upon conviction thereof, shall be confined in the penitentiary for not less than six nor more than twelve months. (*Ibid*, § 32.)

**53.** Every penalty provided for by this act shall be sued for and recovered in the name of the Commonwealth of Kentucky, by the commonwealth's Attorney of the County in which the company or the agent or agents so violating shall be situated; and said penalty, when recovered, shall be paid into the treasury of the State; and in the case of the non-payment of such penalty, the party so offending shall be liable to imprisonment for a period not exceeding six months, in the discretion of any court having cognizance thereof. Such penalties may also be sued for and recovered in the name of the Commonwealth of Kentucky, by the Attorney-General; and when sued for and collected by him, shall be paid into the State treasury, less thirty per cent. to be paid him for his services, (*Ibid*, § 33.)

**54.** The Auditor of Public Accounts of this commonwealth shall, in his official capacity, take and hold, on deposit, the securities of any insurance company, other than life insurance companies incorporated under the laws of this State, which are deposited by any such company, for the purpose of complying with the laws of other States, in order to enable them to do business in such State, and give a certificate of such deposit to the company making it. The company

making such deposit shall have the right to receive the income of the securities deposited, and at any time to exchange the same according to the laws of the States in which they are doing business; *Provided always*, That such securities shall be held in trust for the benefit and protection of all the policy-holders and creditors of the company making the deposit in the United States, and shall be subject to the payment of any forfeitures, assessments, or taxes due and unpaid to this State, or any State in which the company may do business. (*Ibid*, p. 58, § 34.)

**55.** Whenever the existing or future laws of any other States of the United States shall require of insurance companies incorporated by or organized under the laws of this State, and having agencies in such other States, or of the agents thereof, any deposit of securities in such State for the protection of policy-holders or otherwise, or any payment for taxes, fines, penalties, certificates of authority, license fees, or otherwise, greater than the amount required for such purposes from similar companies of other States by the then existing laws of this State, then, and in every such case, all companies of such States established or having heretofore established an agency or agencies in this State, shall be, and are hereby, required to make the same deposit for a like purpose with the Auditor of this State, and to pay to said Auditor and Commissioner for taxes, fines, penalties, certificates of authority, license fees, or otherwise, an amount equal to the amount of such charges and payments imposed by the laws of such State upon the companies of this State and the agents thereof. (*Ibid*, § 35.)

**56.** The necessary expenditure of any examination made, or ordered to be made, by the Commissioner, under this act, shall be certified to by him, and paid by the company examined. (*Ibid*, § 36.)

**57.** That all insurance companies doing any business provided for under section one of this act, or heretofore incorporated by the laws of this Commonwealth, are required to make all the returns and perform all the requirements of companies organized under this act, and are hereby made subject to all the penalties and are entitled to all the benefits of this act the same as if organized thereunder; *Provided, however*, That where the capital stock of such companies shall consist in part of stock notes, and at least fifty per cent. of the capital stock of such companies shall have been paid before the first day of July, 1870, the remainder of said notes may continue to be held until they shall be paid up by the dividends of such companies, made in accordance with the provisions of section fifteen of this act; and all such dividends shall be applied to their payment, until said stock notes are fully discharged; and it shall be the duty of said companies to furnish to the Commissioner, in connection with their annual statement, a list of said stock notes, with names of the principals and sureties, the original amounts, and the amounts remaining unpaid, with the certificate of a justice of the peace of the precinct where the persons making such notes shall reside that the persons making them are, in his opinion, pecuniarily good and responsible for the same, or in lieu thereof may substitute other securities satisfactory to the Commissioner. (*Ibid*, § 37.)

**58.** That hereafter every company, association, or partnership, transacting any business of insurance within this Commonwealth, organized under or by authority of any other State or country, shall, on the first Mondays in May and November in each year, report under oath, to the Auditor of Public Accounts, the total amounts

of all premiums received within the six months next preceding, or since the last returns were so made, and shall at the same time pay into the treasury of this State a tax of two dollars and fifty cents upon each hundred dollars of the said premiums so ascertained; and hereafter no clerk of any county court shall have authority to receive or receipt for any such taxes. (*Ibid*, p. 59, § 38.)

**59.** That any president, treasurer, secretary, company, or association, who shall neglect or fail, for the space of thirty days, to report or pay, as required by the thirty-eighth and forty-second sections of this act, shall, in addition to the tax, forfeit and pay one thousand dollars as a penalty for such neglect or failure; and the party so neglecting or failing for sixty days, shall thereafter be debarred from transacting any insurance business in this State, either directly or indirectly, until such taxes and penalties are fully paid; and the Auditor shall revoke the certificate of authority or license granted such party so neglecting or failing, for sixty days after the time fixed in said sections, to report and pay. (*Ibid*, § 39.)

**60.** That nothing in the thirty-eighth section of this act shall be construed to require any report to the Auditor, or any payment of taxes into the treasury, on premiums received by general agents, where said premiums shall have been received through local agents of their company or companies in other States, nor by local agents of this State, where said local agents shall have already made returns of amount of said premiums to the Auditor and paid the taxes thereon; but said general agents shall report and pay taxes on all premiums received by him, or by his solicitors or agents, where no previous tax shall have been paid thereon in this State; and any general agent may report the premiums and pay the taxes for any or all of his local agents or solicitors in this State, in which case he shall give the name and location of each, the amount of premiums received, the deductions made for returned premiums on canceled policies, and amount for reinsurance, balance of premiums, and amount of tax for each local agent or solicitor. (*Ibid*, p. 60 § 40.)

**61.** That if any president, secretary, agent, attorney, or other person, whose duty it is to make or file any annual or other statement, report, or other instrument in writing, required by the provisions of this act, shall falsely or fraudulently so make or file such statement, report, or other instrument, he shall be deemed guilty of perjury, and upon conviction thereof, shall be imprisoned in the county jail or the penitentiary, as may be determined by the court or jury, for a period of not less than three nor more than twelve months. (*Ibid*, § 41.)

**62.** It shall be the duty of the president, treasurer, or secretary of any insurance company organized by any law of this State, to report, under oath, to the Auditor of Public Accounts, on or before the tenth day of July in each year, the amount of its capital stock; and on or before the tenth day of October in each year every such company shall pay into the treasury a tax upon the full amount of such capital of fifty cents upon each one hundred dollars; but such tax shall always be upon an amount equal to the capital stock of such company. (*Ibid*, § 42.)

**63.** This act shall take effect from its passage; *Provided*, That agents of companies, other than those organized under the laws of this State, which may have received license prior to the passage of this act, shall not be obliged to renew application until such license shall expire; but such companies, and companies or-

ganized under the laws of this State, shall be subject to examination at the discretion of the Commissioner. (*Ibid*, § 43.)

**64.** All receivers of insurance companies heretofore, or which may hereafter be appointed, shall make reports annually to the Commissioner, and as much oftener as he may require, in the manner and form to be prescribed by him. (*Ibid*, p. 61, § 44.)

### LIFE INSURANCE COMPANIES.

**65.** Any number of persons, not less than twelve in number, may associate and form an incorporation or company, to make insurance upon the lives of individuals, and every insurance appertaining thereto, or connected therewith, and to grant, purchase, or dispose of annuities and endowments of any kind. (*Laws of 1870*, p. 61, § 1.)

**66.** No company organized under the laws of this State, or organized under the laws of any other State, or of the United States, or of any foreign government, transacting the business of life insurance in this State, shall be permitted to take any other kind of risks, except those connected with or appertaining to making insurance on life, and the granting, purchasing, and disposing of annuities and endowments; *Provided*, That companies authorized by the laws of other States or countries to do both fire and life, or life and accident insurance business, and which have transacted either a fire or accident business in this State under the authority of its laws, may continue such fire or accident business therein, and may renew and continue in force any life policies heretofore issued, but shall issue no new life policies. (*Ibid*, § 2.)

**67.** Every insurance company organized under this act, or other law of this State, shall have authority to reinsure any risk herein authorized to be taken, or any part thereof. (*Ibid*, § 3.)

**68.** The persons referred to in the first section of this act shall be designated incorporators; and they shall file in the office of the Insurance Commissioner a declaration, signed by each of them, setting forth their intention to form a company for the purposes named in this act, which shall include a copy of the charter they propose to adopt, which charter shall set forth the name and plan of organization of the company; whether stock or mutual, and the amount and description of capital, or the number of agreements for insurance; the place where it is to be located; the kind of business to be undertaken; the mode and manner in which the corporate powers of the company are to be exercised; the manner of electing the trustees or directors, and officers, and the number thereof, a majority of whom shall be citizens of this State, and the time of such election; the manner of filling vacancies, the amount of capital to be employed, and such other particulars as may be necessary to explain and make manifest the objects and purposes of the company, and the manner in which it is to be conducted. (*Ibid*, § 4.)

**69.** Whenever the incorporators shall file such declaration with the Insurance Commissioner, he shall notify the Auditor, who shall submit the same to the Attorney-General for examination; and if found by him to be in accordance with the provisions of this act, and not inconsistent with the constitution and laws of the United States and of this State, he shall certify to the same, and deliver it



to the Insurance Commissioner, who shall cause the said declaration, with the certificate of the Attorney-General, to be filed away, after the same has been recorded in a book, to be kept for that purpose; and upon application of the corporators, or a majority of them, to the said Commissioner, it shall be his duty to furnish to them a certified copy of such declaration and certificate under his seal of office. (*Ibid*, p. 62, § 5.)

70. Whenever the incorporators shall have received from the said Commissioner the certified copy provided for in the preceding section, and desire to proceed to organize such company, they shall publish their intention in a newspaper published in the county, or, if none be published in the county, in which said company is to be organized, then in a paper having general circulation therein, published in this State; and when such intention has been published in said paper for six weeks, they may open books to receive subscriptions to the capital stock, and keep such books open until the amount required by this act is subscribed, and may then proceed to distribute the stock among the subscribers, if more than the necessary amount is subscribed, and proceed to collect in the said capital and complete the organization of the company. The Commissioner, upon notice to him that the capital stock named in the charter has been subscribed, and one hundred thousand dollars thereof paid in, shall make an examination, or cause one to be made, by some disinterested person, specially appointed by him for that purpose, or by his deputy; and if, upon examination, it shall be found by the Commissioner or his deputy, or certified to him by the person so appointed, under oath, that the provisions of the eleventh section of this act have been complied with by said company, so far as applicable thereto, which certificate, when made, shall set forth the particulars of said compliance, then the Commissioner shall so certify; and the corporators or officers of such company shall be required to certify, under oath, to the person making such examination, that the money or required securities exhibited to him are the *bona fide* property of said company. (*Ibid*, § 6.)

71. Before any mutual life insurance company shall go into operation, under authority of any general or special law of this commonwealth hereafter to be enacted, or under this act, a guarantee capital of one hundred thousand dollars shall have been subscribed, paid in, and invested, as required by the provisions of law regulating investments of the capital of life insurance companies; or, in lieu of the capital required by this and the preceding section, when *bona fide* agreements for assurance named in the charter, which shall not be less than one hundred persons, have been made, and an amount of premiums not less than one hundred thousand dollars has been received and invested in the same description of securities in which capital stock is required to be invested. The Commissioner, upon notice to him, shall make an examination, or cause one to be made by some disinterested person, specially appointed by him for that purpose, or by his deputy; and if, upon examination, it shall be found by the Commissioner, or his deputy, or certified to him by the person so appointed, under oath, that such agreements have been entered into with said company, and premiums received, in the manner and to the amount aforesaid, and are held by it in money, or in securities, as required by section eleven of this act; and the corporators or officers of such company shall also certify, under oath, to the Commissioner or person mak-

ing such examination, that the money or required securities exhibited to him have been received, and are held for premiums on *bona fide* proposals and agreements for insurance, the Insurance Commissioner shall certify the same in detail. (*Ibid*, p. 63, § 7.)

**72.** Whenever the corporators shall have fully organized such company, and the Insurance Commissioner shall be furnished with satisfactory evidence that the required amount of capital has been paid in, invested, and deposited as hereinafter provided, it shall be his duty to furnish the corporation with a certificate of such deposit, which, with a certified copy of all the papers elsewhere required under this act, shall, when filed in the county clerk's office of the county where such company is to be located, be the authority to commence business and issue policies, and the same may be used in evidence for and against the corporation in all suits. All such companies, when no other provision is made, may, in their corporate name, sue and be sued, appear, prosecute, and defend to final judgment, and have a common seal, which they may alter at pleasure. They may adopt by-laws not inconsistent with their charter or this act or the constitution and laws of the State, as may be deemed necessary for the management of its affairs. (*Ibid*, § 8.)

**73.** No life insurance company, organized under any general or special law of this Commonwealth, shall adopt the name of any existing insurance company or association transacting business in this State, or any name so similar thereto as to be calculated to mislead the public; and the Insurance Commissioner is hereby prohibited from granting the necessary certificates to any such company adopting a name prohibited by this act, to enable it to procure the authority to do business. (*Ibid*, p. 64, § 9.)

**74.** Every insurance company doing business in this State shall conduct the same in the proper and corporate name of said company, and not by various and different names. The policies or contracts of insurance by any company shall be headed or entitled only in the corporate name or title of said company. (*Ibid*, § 10.)

**75.** The capital stock and accumulations not required for its current business of every life insurance company deriving its authority from any general or special law of this Commonwealth, shall be invested in the bonds or treasury notes, bearing interest, of the United States, or bonds of the State of Kentucky; or of any city, town, or county of this State, having lawful authority to issue the same; or in bonds of railroad companies of this State; or they may be invested or loaned on mortgages of real estate in the State of Kentucky, unincumbered, and worth at least double the amount loaned thereon, or on pledges of any of the stocks or bonds named in this section. The evidence of debts, whether notes, bonds, or other instrument, shall in all cases be lodged with and accompany the mortgage, in such manner that the mortgage can not be released without the consent of the company. (*Ibid*, § 11.)

**76.** Every life insurance company, organized by any general or special law of this Commonwealth, shall deposit with the Treasurer of the State, who shall receive the same in his official capacity, any of the bonds or securities in which, by law, it is authorized to invest its capital and accumulations, to an amount not less than one hundred thousand dollars, to be held by the said Treasurer for the benefit of the policy-holders of the company making such deposit. When any mortgage debt shall be deposited, it shall be accompanied with a notice served upon or acknowledged by the mort-

gagor, that the same has been so deposited for the purpose aforesaid. When required to do so, said Treasurer shall give to any company making the aforesaid deposit a certificate thereof, giving description of the securities, and their par or market value, which valuation must be approved by the Commissioner: and if said securities shall at any time depreciate so that their aggregate value is less than the sum of one hundred thousand dollars, the Insurance Commissioner shall notify and require said company to make good the said deficit; in default whereof, for thirty days after such notice, he shall notify the company to cease to do business until the same has been done. The Treasurer shall, upon receipt of said securities, and upon request of the company to which they belong, make a special deposit of the same in a package, marked with the name of the company from which received, and otherwise described and designated, in any incorporated bank of this State which he may approve, to be there held, unless removed by the mutual consent of the company and the Treasurer, or in accordance with other provisions of law, as security for policy-holders in the companies to which they respectively belong; but so long as any company so depositing shall continue solvent, and shall not be in arrears for taxes or other assessments, the Treasurer shall permit said company to collect the interest or dividends on its securities so deposited, and, from time to time, to withdraw any such securities on depositing others instead of those withdrawn, such new securities to be of at least equal value, and of the kinds mentioned in this act; but such securities, or any part of the same, shall not be withdrawn from the place of deposit unless upon the written order of the acting president and secretary, or of the directors of the company making the deposit, indorsed by the Insurance Commissioner, or upon the order or by the authority of some court of competent jurisdiction; and if the said Treasurer shall willfully fail, refuse, or neglect to faithfully keep, deposit, account for, or surrender, in the manner by this act authorized or required, any such securities as aforesaid received by him, or into his custody, under the provisions of this act, such Treasurer so offending shall, upon conviction thereof, be adjudged guilty of a felony, and punished by fine not exceeding ten thousand dollars, and by imprisonment in the State penitentiary for not less than two nor more than ten years. (*Ibid*, § 12.)

**77.** Any court of competent jurisdiction, whenever a judgment shall have been recovered against any company by which any such securities have been deposited, as hereinbefore required or authorized, upon a policy issued by such company, and an execution issued upon such judgment shall have been returned unsatisfied, wholly or in part, shall, upon motion made by the plaintiff in such execution, upon three days' notice to the company, order the Insurance Commissioner and Treasurer to deliver into court, of the securities so deposited by said company, an amount sufficient to satisfy said judgment in full, or so far as such securities will suffice therefor; which order, being obeyed, shall release the Treasurer, Commissioner, and bank holding such securities on deposit, from further liability in respect to the same; and the securities so delivered into court shall be collected or disposed of for the benefit of said plaintiff, as provided by law in respect to notes or securities delivered into court by a garnishee; and whenever any securities, such as aforesaid, shall be delivered into any court, under the foregoing provisions, said Commissioner, unless the company against whom

such execution issued shall, within ten days thereafter, deposit with the Treasurer other securities of like description and value, and for the like purposes as the securities so withdrawn, shall proceed in respect to such company in the manner provided by law with respect to companies believed by him to be insolvent, or in an unsound condition. (*Ibid*, p. 65, § 13.)

**78.** The Insurance Commissioner and Treasurer may deliver up to any insurance company the securities held by the Treasurer, in virtue of this act, and belonging to such company, on being satisfied, by the exhibition of the books and papers of such company or association, and on examination to be made by the Commissioner, or some competent person to be appointed by him, not an officer of any life insurance company in this State, and upon the oath of the president or principal officer, and the secretary or actuary of the same, or a majority of the trustees or directors, that all debts and liabilities of every kind are paid and extinguished that are due, and may become due, upon any contract or agreement made with any citizen of the United States; and the said Commissioner and Treasurer may also, from time to time, deliver up to such company or association, or its assigns, any portion of said securities, on being satisfied, in manner and form aforesaid, or by any other competent proof, that all the debts and liabilities of every kind that are due, or may become due, upon any contract or agreement made with any citizen of this State or of the United States, by said company, are less than one-half of the amount of the portion of said securities that shall be retained on deposit; but before they shall so deliver up the whole, or any portion of said securities, they shall advertise, in some newspaper published in this commonwealth, for three months, the intention to do so, unless good cause is shown why they shall not be so delivered up. (*Ibid*, p. 66, § 14.)

**79.** It shall be the duty of every life insurance company doing business in this State, whether deriving their corporate powers from this State or any other State, or from the United States, or from any foreign government, on the 10th day of January in each year, or within sixty days thereafter, to return a statement, in detail, of their condition to the Commissioner of Insurance, certified, under oath, by two of the principal officers of said company, or by a majority of the directors, which shall be in form as follows: 1. Name of the company; 2. When and by what authority chartered; 3. For what period; 4. Where located, 5. State in full the assets of the company; 6. Number of shares owned in each bank or railroad, separately, with par and market value of each, and cost on books of each; 7. Amount owned in railroad, city or county bonds, separately, par and market value of each; 8. Amount in State or United States bonds, par and market value; 9. Amount loaned on mortgages of real estate, with value of real estate, and whether the evidences of debt are held with them; 10. Amount loaned on notes secured by collaterals of personal security, and whether safe; 11. Amounts loaned on notes without collaterals; 12. State in full all other investments; 13. How much included in the foregoing statement of assets consists of premium notes on policies not now in force; 14. Number, date, amount, and description of each outstanding policy not heretofore returned, and age of the insured; 15. Number, date, amount, and description of each policy which has, within the year, ceased to be in force, how terminated, what has been paid to the legal holder of the policy, and age of the insured;



16. Amount of losses ascertained and unpaid; 17. Amount of losses claimed against the company, whether acknowledged as due or not by the company; 18. Amount due from the company on its declared, promised, or acknowledged indebtedness, or other claims, including dividends, bonuses on distribution of surplus, or as profits; 19. Amount received for premiums the past year; 20. Amount received for premiums the past year in cash; 21. Amount received in same time in premiums, in promissory notes or securities; 22. Amount received for interest the past year; 23. Amount paid for interest the past year; 24. Amount of guarantee funds, stating particularly whether the same are in cash or subscription notes; 25. How are dividends, distribution of surplus funds, bonuses, or estimated profits, paid; whether in cash or in scrip, or otherwise on credit, and whether on demand; or if on credit, for what length of time, and whether payable at a specific time or indefinitely, at the discretion of the company; 26. Amount paid for expenses, taxes, and commissions, the past year; 27. A descriptive list of all the policies in force, unless said list shall have been previously furnished; 28. The whole number of policies issued in the State of Kentucky, the amount assured thereby, and amount of premiums in cash or credits, or notes received thereon; 29. A balance sheet of the business of the company, taking as the basis the net assets of the company on the 31st day of December of the year preceding that for which the statement is made, which annual statement shall be brought down to 31st of December next preceding the time in which it is required to be returned. (*Ibid*, p. 67, § 15.)

80. The Insurance Commissioner is hereby authorized to revise and amend the forms of annual statement hereinbefore prescribed, and to propose such additional inquiries as are, in his opinion, necessary to elicit a full exhibit of the business and standing of the various life insurance companies doing business in this Commonwealth. (*Ibid*, p. 68, § 16.)

81. The time prescribed for filing annual statements of insurance companies may be extended by the Commissioner in favor of any company, for good cause shown, but not beyond sixty days next after such specified time. (*Ibid*, § 17.)

82. Any company doing business in this State, neglecting to make returns in the manner and within the time prescribed by law, unless extended by the Commissioner, as prescribed in the preceding sections, shall forfeit ten dollars a day for each day of such neglect; and every company that willfully makes false statements shall be liable to a fine of not less than five hundred nor more than one thousand dollars. Any new business done by any company, or its agents, in this State, after neglect to make the prescribed returns, shall be deemed to be done in violation of law. (*Ibid*, § 18.)

83. If, upon examination, the Commissioner is of opinion that a company is insolvent, or that its condition is such as to render its further proceedings hazardous to the public, or to those holding its policies; he shall report to the Attorney-General, who shall apply to a judge of the Franklin circuit court, or of the circuit court of the county where such company is located, to issue an injunction restraining such company, in whole or in part, from further proceeding with its business, notice of which application shall be forthwith served on said company or its representative; and said application shall be heard within twenty days after such notice, unless, for good cause shown by the company or the Commissioner,

further time shall be deemed necessary to the ends of justice. The court shall have power to refer the complaint or application of the Attorney-General to a referee, to inquire into and report upon the facts stated herein. He may make such orders and decrees as may be needful to suspend, restrain, or prohibit the further continuance of the business of the company; and may appoint agents or receivers to take possession of the property and effects of the company, subject to such rules and orders as are, from time to time, according to the course of proceedings in equity, prescribed by the court or a judge thereof in vacation. (*Ibid*, § 19.)

**84.** Whenever, upon examination, the Commissioner is of opinion that any insurance company incorporated in this commonwealth has exceeded its powers or failed to comply with any of the rules, restrictions, or conditions provided by law, he may apply to the judge of the Franklin circuit court, or of any court having chancery jurisdiction in the county where such company is located, to issue an injunction restraining such company, in whole or in part, from further proceeding with its business; and the provisions of the preceding section are hereby extended to proceedings under this section. The costs and reasonable expenses of any examination or proceeding authorized by this or the preceding section of this act, including reasonable attorney's fees, to be allowed and taxed as costs by the court or judges appointing such attorney as aforesaid, shall be paid by the company so examined or proceeded against; and such expenses, other than taxed costs, may be recovered by said Commissioner in an action therefor against such company; *Provided*, That if any injunction issued hereunder be dissolved, and the court or judge dissolving the same shall not state in the order or decree of dissolution that there was reasonable grounds for procuring such injunction, the costs of such proceeding shall be taxed and paid by the Commissioner of the Insurance Bureau, and shall be allowed him, in his accounts, upon proper vouchers therefor, as expenses of said department. (*Ibid*, p. 69, § 20.)

**85.** When a majority in number or interest of the members of an insurance company, incorporated in this State, desire to close its concerns, they may apply, by petition, to any court having chancery jurisdiction, of the county where such insurance company is located, setting forth in substance the grounds of their application; and the court, after due notice to all parties interested, by publication in a newspaper published or having general circulation in the county where the company is located, at least once a week for six months, may proceed to hear the matter, and for reasonable cause decree a dissolution of the company. Corporations so dissolved shall be deemed and held extinct, in all respects as if their charters had expired by their own limitation; *Provided, however*, That all necessary proceedings may be taken by the company, or by the court, for closing up its affairs; and the court having jurisdiction may make such orders, injunctions, and decrees as justice and equity require. (*Ibid*, § 21.)

**86.** All accounts rendered by receivers of insurance companies, appointed as provided in this act, to the court having jurisdiction, shall be referred to the Insurance Commissioner, who shall carefully examine the same, and report to the court any errors or omissions; and the court may make all such orders and decrees in the premises as to law and justice appertain. (*Ibid*, p. 70, § 22.)

**87.** The receivers of insurance companies, shall report to the

Insurance Commissioner, annually, in such form as he may prescribe, on or before the fifteenth day of March, and as much oftener as he directs. Such reports, or abstracts therefrom, shall be incorporated in the annual report of the Commissioner. (*Ibid*, § 23.)

**88.** Life insurance companies, incorporated in this State, may exercise all the powers, and shall be subject to all the duties and liabilities, provided in this act, not inconsistent with their respective charters. (*Ibid*, § 24.)

**89.** Every life insurance company, not now in operation, which shall fail for twelve months after the passage of this act, or the filing of a declaration under this act, to comply with the law, and obtain authority to commence business, shall be deemed and held extinct, and its charter proceeding void. (*Ibid*, § 25.)

**90.** It shall be the duty of the president, treasurer, or secretary of any life insurance company, deriving its authority from any general or special law of this commonwealth, to report under oath to the Auditor of Public Accounts, at the time of filing the annual statement of such company, the amount of capital stock of such company or association, and shall at the same time cause a tax of fifty cents upon each one hundred dollars of capital stock to be paid into the treasury proper of the State; *Provided*, That no life insurance company shall pay upon less than one hundred thousand dollars, whether it be a stock or mutual company. (*Ibid*, § 26.)

**91.** No taxes shall be assessed in any city or town for any State, county, or town purposes, upon the shares in the capital stock or accumulated funds for any year for which they pay the taxes provided herein to be paid; but this shall not exempt the real estate of such company. (*Ibid*, § 27.)

**92.** Life insurance companies of this State, which do business upon the principle of mutual insurance, or the members of which are entitled to share in the surplus fund thereof, may make distribution of so much thereof, after retaining the reserve required by law, as the company may determine, annually, or once in two, three, four, or five years. (*Ibid*, p. 71, § 28.)

**93.** When the actual funds of any life insurance company doing business in this commonwealth are not of a net cash value equal to its liabilities, counting as such the net value of its policies, according to the "American Experience" rate of mortality, with interest at four and one-half per centum per annum, it shall be the duty of the Insurance Commissioner to give notice to such company and its agent to discontinue issuing new policies within this commonwealth until such time as its funds have become equal to its liabilities, valuing its policies as aforesaid. Any officer or agent who, after such notice has been given, issues a new policy from and on behalf of such company, before its funds have become equal to its liabilities as aforesaid, shall forfeit for each offense, not exceeding one thousand dollars. (*Ibid*, § 29.)

**94.** A policy of insurance on the life of any person, expressed to be for the benefit of any married woman, whether procured by herself, her husband, or any other person, shall inure to her separate use and benefit, and that of her children, independently of her husband or his creditors, or the person effecting the same or his creditors. A trustee may be appointed by the party obtaining the policy, or if no such appointment is made, then by any judge of the probate court of the county in which the party for whose benefit the policy is made shall reside, to hold the interest of the married

woman in such policy, or the proceeds thereof, if the law at the time makes such trustee necessary to effect the object for which the policy was obtained. (*Ibid*, § 30.)

**95.** A policy of insurance on the life of any person, duly assigned, transferred, or made payable to any married woman, or to any person in trust for her, or for her benefit, whether such transfer be made by her husband or other person, shall inure to her separate use and benefit, and that of her children, independently of her husband or his creditors, or of the person effecting or transferring the same, or his creditors; *Provided, however,* That if the premium on such policy is paid by any person with intent to defraud his creditors, an amount equal to the premium so paid, with interest thereon, shall inure to the benefit of said creditors, subject, however, to the statute of limitations. (*Ibid*, § 31.)

**96.** When a policy is effected by any person on his own life, or on the life of another, expressed to be for the benefit of such other or his representatives, or a third person, the person for whose benefit it was made shall be entitled thereto against the creditors and the representatives of the person effecting the same. If the premium is paid by any person with intent to defraud his creditors, an amount equal to the premium so paid, with interest thereon, shall inure to their benefit (*Ibid*, p. 72, § 32.)

**97.** No life insurance company shall be permitted to purchase, hold, or convey real estate, excepting for the purpose and in the manner herein set forth:

*First.*—Such as shall be requisite or convenient for its accommodation in the transaction of its business; or

*Second.*—Such as shall have been mortgaged in good faith, by way of security for loans previously contracted for moneys due; or

*Third.*—Such as shall have been conveyed to it in satisfaction of debts previously contracted in the course of its dealings; or

*Fourth.*—Such as shall have been purchased at sales upon the judgments, decrees, or mortgages obtained or made for such debts; and it shall not be lawful for such company to purchase, hold, or convey real estate in any other case, or for any other purpose; and all such real estate as may be acquired as aforesaid, and which shall not be requisite or convenient for the accommodation of such company in the convenient transaction of its business, shall be sold and disposed of within five years after such company shall have acquired absolute title to the same; and it shall not be lawful for such company to hold real estate for a longer period than that above mentioned, unless the said company shall procure a certificate from the Commissioner of Insurance that the interests of the company will suffer materially by a forced sale of such real estate; in which event the time for the sale may be extended to such time as the Commissioner of Insurance shall direct in such certificate. (*Ibid*, § 33.)

**98.** It shall not be lawful for any person to act within this State as agent or otherwise, in receiving or procuring applications for assurance, or in any manner to aid in transacting the business referred to in the first section of this act, for any life assurance company, or association, incorporated by, or organized under, the laws of the United States, or any other State of the United States, or any foreign government, unless such company is possessed of the amount of capital, and of actual paid-up capital, required of companies formed under the provisions of this act. (*Ibid*, § 34.)



**99.** No such company mentioned in the preceding section shall transact any business in this State, by an agent, unless it shall first file, with the Insurance Commissioner, a written instrument or power of attorney, duly signed and sealed, authorizing any and every agent that is or may be acting for such company in this State to acknowledge service of process for and in behalf of such company in this State, and consenting that service of process on any such agent shall be taken and held to be as valid as if served upon the company, according to the laws of this or any other State; and that in case any such insurance company shall cease to transact business in this State, any person who acts as such agent shall be considered and held as continuing to be agent for such company, for the purpose of process, as aforesaid, in any action against the company upon any policy or liability issued or contracted during the time such company transacted business in this State. Service of process upon any such agent, wherever found in this State, shall be sufficient to give jurisdiction to the proper court of the county where the cause of action may have arisen, or of the county of the residence of the assured when the suit shall be upon any policy relating to life insurance; it shall be the duty of the clerk of the court in which suit may be brought against any insurance company, at the commencement of the action, to place in the post-office a copy of the summons or other process which may be issued in the cause directed to the company, at the place of the location of its principal office, postage paid; and he shall make a note or memorandum thereof on the papers of the suit, and tax the costs, postage included, as other costs of the suit; *Provided*, That such notification by the clerk shall not affect the time of the trial of the cause. If any such insurance company shall, without the consent of the other parties to any suit or proceeding against it, brought or to be brought, in any of the courts of this commonwealth, remove the said suit or proceeding into any Federal court, or if such company shall hereafter institute any suit or proceeding against any citizen of the commonwealth in any Federal court, it shall be the duty of the Auditor forthwith to revoke all authority to such company, and all its agents, to do business in this commonwealth, and to publish such revocation in some newspaper published in this commonwealth. (*Ibid*, p. 73, § 35.)

**100.** It shall not be lawful for any life insurance company, organized or incorporated under the laws of the United States, or of any State thereof except this, or of any foreign government, to transact any business in this State mentioned in the first section of this act, until it shall have filed with the Insurance Commissioner of this State the certificate of the Superintendent or Commissioner of Insurance, or some chief financial officer of some other of said United States, or financial officer of the United States, under his hand and official seal, that he holds on deposit, for the benefit of all policy-holders of such company, stocks and securities amounting to at least one hundred thousand dollars, stating the kind, such as life insurance companies of this State are authorized to invest their capital stock in, or in which such companies are authorized to invest their capital stock or accumulated funds by the State in which the deposit has been made, or by the law of the United States; *Provided*, That any such company, not having such deposit made in the State in which it is organized, or with some officer of the United States, or in some other State, may make such deposit in

this State in the manner, and subject to the provisions of law, applicable to similar companies of this State. (*Ibid*, § 36.)

**101.** Every life insurance company, not organized under the law of this State, before transacting any business in this State, if it has not already done so, shall return to the Auditor a copy of its charter, articles of association, or deed of settlement, by whatever name its organic law may be called; and the Auditor shall, upon receiving a certificate from the Insurance Commissioner that such company has fully complied with the laws of this State, and is possessed of the legal reserve, furnish, to such agents as the company directs, a copy of such Commissioner's certificate, together with a license to transact business as agent for said company under the seal of the Bureau of Insurance. (*Ibid*, p. 74, § 37.)

**102.** Licenses to agents must be renewed annually, in the same manner as original licenses were issued, upon certificate of the Commissioner that the company represented by the agent has fully complied with the law of this State, and maintains its legal reserve. (*Ibid*, § 38.)

**103.** It shall be the duty of the State agent or manager of every company, and when there is no State agent or manager, then a special agent, appointed for that purpose, to return to the Auditor for deposit in the Insurance Bureau, on the first day of May and November in each year, or in thirty days thereafter, a correct statement, under oath, of all premiums received or agreed to be received, by all their agents doing business in this State, and amount of insurance effected, designating therein the amount in cash, or in notes or certificates of forbearance of premium, or loans on policies or renewals. If no premiums have been received, the fact shall nevertheless be reported; *Provided*, That the Commissioner may, for a good cause shown, extend the time for making such return. (*Ibid*, § 39.)

**104.** Every such agent of any insurance company, not incorporated in this State, neglecting to make the returns required by law, shall forfeit twenty-five dollars for each offense, to be recovered by the Insurance Commissioner, for the use of the commonwealth. Such agent so neglecting shall be notified by the Commissioner or his deputy; and if he continues such neglect for ten days after such notice is deposited in the post-office, directed to his proper address, or has been otherwise conveyed to him, he shall forfeit five hundred dollars for such neglect, to be recovered by the Commissioner for the use of the commonwealth; *Provided*, That no agent shall be held liable if it is made to appear, to the satisfaction of the Commissioner, that the required statements were duly deposited in the post-office and directed to the Insurance Commissioner, and that there was no neglect on his part. (*Ibid*, p. 75, § 40.)

**105.** It shall be the duty of every life insurance company, not organized under authority of the laws of this State, but doing business therein, on or before the first Mondays in June and December of each year to pay into the treasury two dollars and fifty cents on every one hundred dollars of net premiums received in cash, during the six months last preceding, ending on the last days of April and October respectively; and any company failing or refusing, for thirty days, to render an accurate account of all such premiums received, under the oath of some principal officer or general agent for the State, and to pay the tax required thereon by this act, shall forfeit one hundred dollars for such offense; and it shall be the duty of the

Auditor to revoke all authority to such company or its agents, and to publish such revocation in some newspaper of this commonwealth. (*Ibid*, § 41.)

**106.** Every person who shall transact any business as an agent of any life insurance company, without first procuring the license required in this act, or who knowingly procures payment, or any obligation for the payment of any premium for insurance, by fraudulent representations, or after revocation of his license, shall be punished by fine not exceeding one thousand dollars. (*Ibid*, § 42.)

**107.** Whoever solicits and receives application for insurance on behalf of any life insurance company, whether incorporated by this commonwealth, or elsewhere, or transmits for any person other than himself an application for insurance, or a policy of insurance to or from such company, or advertises that he will receive or transmit the same, shall be held to be an agent of such company within the meaning of this act. (*Ibid*, § 43.)

**108.** Insurance companies created by any other authority than that of this State, having property in this State, shall be liable to be sued, and their property shall be subject to be attached in like manner as residents of other States having property in this State are liable to be sued and their property to be attached. (*Ibid*, p. 76, § 44.)

**109.** The Governor may allow such reasonable compensation to attorneys or agents of the bureau, for services rendered, and for expenses incurred in enforcing the laws relating to insurance companies, as he may deem proper; *Provided*, That in all cases tried by any court of competent jurisdiction, such compensation shall be adjudged by the court. (*Ibid*, § 45.)

**110.** If insurance is made by any company as authorized by this act to be made, but without a compliance with the requirements of the laws of this State, the contract shall be valid; but the agent or person making the insurance shall be liable to a fine not exceeding one thousand dollars for each offense. (*Ibid*, § 46.)

**111.** When by the laws of any other State any taxes, fines, penalties, deposits of money or of securities, or other obligations, prohibitions, or requirements are imposed upon insurance companies organized or incorporated under any general or special law of this State, and transacting business in such other State, or upon the agents of such insurance company, greater than those imposed upon similar companies, by the laws of this State, or when such laws of other States shall require insurance companies of this commonwealth to deposit money or security, for the benefit or protection of citizens of such other States, or when the laws of any other State, or the officers thereof, shall prohibit companies of this commonwealth from transacting business in said State, without a special examination of said companies, or a computation of their liabilities by the officers of said State, the same taxes, fines, penalties, deposits, examinations, obligations, and requirements shall be imposed upon all insurance companies doing business in this State, which are incorporated or organized under the laws of such State, and upon their agents. (*Ibid*, § 47.)

**112.** Every fine, penalty, or forfeiture for any neglect of duty or violation of the provisions of this act, shall be sued for in the name of the State of Kentucky by the Attorney-General or prosecuting-attorney of the district or county in which the company or agents so violating shall be situated, when no other provision is

made by this act; and one-half of such penalty, when recovered, shall be paid into the treasury of the commonwealth and one-half to the informer of such violation, other than an officer, whose duty it is to enforce the law; and in the case of the non-payment of such penalty, fine, or forfeiture, the officer or agent of any company so offending and guilty of neglect or malfeasance shall be liable to imprisonment for a period not less than six months, in the discretion of the court having cognizance thereof. (*Ibid*, § 48.)

## REGISTRATION OF LIFE-POLICIES.

**113.** Any life insurance company now or hereafter incorporated by this State, and authorized, under the laws thereof, to make insurance on lives, may deposit in the Insurance Department mortgages on unincumbered real estate in the State of Kentucky worth at least double the amount loaned thereon (and in addition to the securities now required and authorized by law to be deposited by life insurance companies), to any amount not less than twenty thousand dollars, in the manner and for the purpose herein named; *Provided*, That when any mortgage shall be deposited, it shall be accompanied with the evidence of the debt, and with a notice served upon, or duly acknowledged by the mortgagor, that the same has been transferred to the Insurance Department, and will be deposited in said Department, to be held for the uses and purposes named in said act; *Provided further*, That such transfer shall be noted of record on the face of said mortgage, and such entry shall be certified on the mortgage by the clerk of the county court of the county where such mortgage is recorded (*Act of March 15, 1871, § 1.*)

**114.** The mortgages deposited by any company under this act shall be legally transferred by it to the Commissioner of the Insurance Department, for the common benefit of all the holders of its registered policies and annuity bonds issued under the provisions of this act, and he shall hold the same in trust for the purposes and objects specified in this act; said mortgages shall not be alienated from the purposes of said trust, nor transferred, except in the manner herein-after provided, and in compliance with the insurance laws of this State relating to such transfers; *Provided*, That any company hereafter electing to make special deposits, as authorized by this act, shall do so in respect to all policies thereafter issued, and not a portion of them only; *Provided further*, That any company making such special deposit shall first satisfy the Commissioner of Insurance that no part of the assets of said company previously held for the benefit or security of any non-registered policy, has been impaired in making such deposit. (*Ibid*, § 2.)

**115.** Whenever any such company shall legally transfer to the Commissioner of the Insurance Department any amount of said mortgages, not less than twenty thousand dollars, said Commissioner shall issue to said company registered policies of insurance or annuity bonds, of such denominations or amounts as the said company may require; such policies and annuity bonds shall bear upon their face the words, "The net value of this policy is secured by approved real estate mortgages deposited with the State of Kentucky," with the seal of the said department, and shall be countersigned by the Commissioner or his authorized deputy, who shall cause to be indorsed on such policy the net value thereof at the be-



ginning and end of each year of said policy, for ten years, or any less number it may have to run; at the end of said ten years, if requested by the holder, make a similar indorsement of the next succeeding ten, or any less number of years it may have to run before becoming a claim. (*Ibid*, § 3.)

**116.** The said Commissioner shall, on delivering said policies or annuity bonds to any of the said life insurance companies, charge to the said companies respectively the amount of the net present value of such policies or annuity bonds, valued by the tables authorized by law in relation to life insurance companies, according to the amount and number of premiums paid annually, semi-annually, or quarterly thereon, and the terms thereof; but in no case shall the amount of such value exceed, in the aggregate, the amount of the securities deposited under the provisions of this act. On the first days of January and July of each and every year, or within sixty days thereafter, the said companies shall make a return to the Commissioner of the Insurance Department, under oath of the president and actuary, of the exact condition of the registered policies received from the said department, and of the premium account of the said policies, and shall deposit with the said Commissioner additional and similar mortgages to an amount equal to any increase of the value of the policies heretofore issued, and which shall remain in force, valued by the same rule as upon the issue thereof; and the mortgages thus from time to time deposited, or so large an amount thereof as may be necessary to equal, at all times, the net value of all the outstanding registered policies and annuity bonds of said companies, shall be held by said Commissioner in trust as aforesaid, until the obligations of said companies, under the said registered policies and annuity bonds, shall, to the satisfaction of the said Commissioner, be fully liquidated, canceled, or annulled; but nothing in this act shall be construed as implying any obligation on the part of the State to pay the policies and annuity bonds issued under this act. The Treasurer of the State, and any person duly authorized by the depositing or registering company, shall, at all times, in the usual office hours, have access to the books and other documents in the Insurance Department, relating to the deposits made, and policies and annuity bonds issued under the provisions of this act; and they shall also, at all such times, have access to said mortgages as may be necessary for the examination thereof. The Treasurer shall, for the services required by this act, receive the annual salary of two hundred and fifty dollars, to be paid by the companies availing themselves of the provisions of this act. The said mortgages, when deposited, shall be registered by said Commissioner in a book to be provided for that purpose, which shall be kept as an open record in his office, and shall be indorsed with the name of the company depositing, the date of the deposit, and the purpose for which the same is deposited, which indorsement shall be signed by the company making the deposit and the Commissioner, and countersigned by the Treasurer; and the said Commissioner shall, upon the receipt of said mortgages, and upon the request of the company to which they belong, make a special deposit of the same in a package marked with the name of the company from which received, and date of deposit, in any incorporated bank of this State which he may approve, to be there held in trust and for the uses herein declared, unless removed by the mutual consent, in writing, of the

company and the Commissioner, which shall be countersigned by the Treasurer, and entered on the register aforesaid. (*Ibid*, § 4.)

**117.** The said depositing companies may, at any time, withdraw any excess of mortgages above the net present value hereinbefore specified, upon satisfying the said Commissioner, by written proof, to be filed in the said department, that such excess exists, and shall be allowed to receive the interest on all mortgages deposited, and to exchange such mortgages by substituting others, as now provided by the act in relation to life insurance companies, approved March 12, 1870. (*Ibid*, § 5.)

**118.** The said companies shall deliver to the Superintendent of the Insurance Department the policy and annuity bonds, engraved and printed, or printed and written, in such manner as the said Commissioner shall direct, with duplicate originals of the same, duly signed. On their receipt by the Commissioner he shall cause them to be duly registered, in proper books kept for that purpose, in consecutive numbers, corresponding to the numbers on said policies and bonds; shall cause his name, or the name of his deputy, to be inscribed on the policies and bonds, and affix the seal of the department to the same, and shall return the original policies to the said depositing companies respectively. The expenses necessarily incurred in registering, countersigning, and sealing the said policies and annuity bonds, and in otherwise executing the provisions of this act, including the salary of the Treasurer, shall be audited and paid out of any moneys in the treasury not otherwise appropriated; and, for the purpose of reimbursing the same, the said Commissioner is hereby authorized to charge against the said depositing companies, respectively, an amount sufficient for such purpose as may be just and reasonable. It shall be the duty of the said Commissioner to receive mutilated policies and annuity bonds issued to the said companies, and deliver, in lieu thereof, other policies and bonds of like tenor and date; and in case of lost policies or annuity bonds, to furnish certified copies of the duplicates on file in his office. (*Ibid*, § 6.)

**119.** If, at any time, the affairs of any life insurance company which has deposited mortgages under this act, shall, in the opinion of the Commissioner of the Insurance Department, appear in such a condition as to render the issuing of additional policies and annuity bonds by said company injurious to the public interest, the said Commissioner shall report that fact to the Attorney-General, whose duty it shall then be to apply to the circuit court for an order, requiring said company to show cause why its business should not be closed. The court shall thereupon proceed to hear the allegations and proofs of the respective parties; and in case it shall appear to the satisfaction of the court that the assets and funds of said company are not sufficient to justify the further continuance of the business of insuring lives, granting annuities, and incurring new obligations, as authorized by its charter, then the said court shall issue an order enjoining and restraining said company from the further prosecution of its business, and shall also appoint a receiver of all the assets and credits of said company. The said receiver, upon filing his bond in an amount, and with sureties approved by said court, conditioned for the faithful performance of his duties, shall take possession of all the assets and credits of said company, except the mortgages deposited in the Insurance Department under the provisions of this act, which said mortgages shall remain in

said department, to be disposed of as hereinafter provided. (*Ibid*, § 7.)

**120.** The said receiver shall, immediately on entering upon the duties of his office, appoint a competent actuary, approved by the Commissioner of the Insurance Department, who shall make a careful investigation, according to the standard fixed by the laws of this State, into the condition of said company, and report thereon, in writing, under oath, to said court and receiver; and if it shall, by said report, be found that the mortgages deposited by said company in the Insurance Department, and the assets and credits, including the future premiums that will mature on the outstanding policies, and other obligations of said company, are sufficient, under the laws of this State, to pay all the policies, annuities, and other obligations of said company as they may mature by the terms thereof, and the legal costs and expenses incident to the business; and if said actuary's report shall be confirmed by the court, the said receiver shall notify all the holders of said policies, annuities, and other obligations, requiring them to pay him, as such receiver, all premiums or other payments due or to become due to said company, from time to time, on their respective policies, annuities, or other obligations. Such notice shall be given, by depositing the same in the post-office, at the place where said company has its principal business office, addressed to said parties respectively, at their several residences so far as the same can be ascertained by said receiver; and also by the publication in at least three newspapers of general circulation in the State, once a week, for six successive weeks; or on the confirmation of the report of said actuary, the court may, in its discretion, direct the receiver to reinsure all registered policies in some solvent company, on the execution by said receiver of an assignment to said reinsuring company of all mortgages on deposit in trust for registered policy-holders, or such portions thereof as said court may direct. And in case the said report of the said actuary shall show that the said mortgages, assets, credits, and premiums are not sufficient, under the laws of this State, to pay all the policies, annuities, and other obligations of said company as they may mature by the terms thereof, and the legal costs and expenses of said receivership, the said receiver shall notify the said Commissioner thereof, and the Commissioner shall, with the consent of the Treasurer of the State, and in such manner as the said receiver, Commissioner, and Treasurer, or a majority of them, shall determine, convert said mortgages into money; and the proceeds of such mortgages shall be paid to the said receiver, on his giving his receipt to said Commissioner, and shall be applied by said receiver as follows: to the payment of the registered policy-holders of said company, in proportion to the net value of their policies respectively; and to the registered annuities of said company, in proportion to the then present value of their respective annuities, as estimated by the legal standard for valuing life insurance and annuity obligations within this State. The surplus derived from mortgages, if any there be, after the payment last above mentioned, with all the other assets of the said company, shall be then applied to the payment of all the just debts of said company incurred in the conducting and carrying on its lawful business. (*Ibid*, § 8.)

**121.** Whenever the business of any company shall be continued

under the provisions of the next preceding section, in case the receipt for premiums, and from all other sources, shall, at any time, be in excess of the sums required to meet the policy, and all other obligations of said company, said receiver, whenever such excess shall amount to twenty-five thousand dollars, shall invest said excess in such securities as are authorized to be deposited in the Insurance Department, and shall deposit said securities with the Commissioner of said department in the manner herein provided. If, at any time, the funds in the hands of said receiver are not sufficient to meet such obligations of said company as they mature, he shall notify the said Commissioner of the amount required to meet the deficiency in respect thereto; and it shall become the duty of the Commissioner to convert into money, with the consent and advice of the Treasury of the State, and in such manner as the Receiver, Commissioner, and Treasurer, or a majority of them, shall determine, such portion of said mortgages as may be required to meet the said matured obligations; and the proceeds of such mortgages so converted shall be paid to said receiver, on his giving his receipt therefor to the said Commissioner, to be used as required for said matured obligations. (*Ibid*, § 9.)

**122.** On the first day of January in every year, or within thirty days thereafter, an investigation shall be made by a competent actuary, approved by the Commissioner of the Insurance Department, into the affairs of said company; and if, upon such investigation, it shall be found that a surplus of its assets, not less in amount than ten thousand dollars, exists, after making adequate provision for meeting, at maturity, all the obligations of said company, and all the legal expenses of said receivership, and, in case of a joint stock company, over and above the amount of its capital, such portion of said surplus as may, under the charter of said company, if a stock company, belong to its stockholders, shall be set aside and invested by said receiver in such mortgages as are authorized to be deposited by this act in the Insurance Department as a contingent fund, and scrip therefor shall be issued by said receiver to said stockholders respectively, in proportion to their respective shares, bearing six per cent. interest, and payable on the final settlement of the affairs of said company, as herein provided. The remainder of such surplus, if the company be a stock company, and the whole of said surplus, if it be a mutual company, shall be disposed of as follows: One quarter of such remainder shall be reserved by said receiver, and invested by him in such securities as are authorized to be deposited by life insurance companies in the Insurance Department by this act as a contingent fund, for which scrip shall be issued by said receiver to all policy-holders entitled under policies to share in the surplus of said company. Said scrip shall bear interest at the rate of six per cent. per annum, payable annually, and shall be redeemable on the maturity of the respective policies to which said scrip may be related. The remaining three-quarters of said surplus shall be paid by said receiver within one year from said first day of January to said policy-holders respectively, in lawful money of the United States. But no scrip shall be issued for any fractional part of a dollar; and any scrip so issued may, at any time, be called in and canceled by said receiver, without payment, if necessary to better secure the remaining obligations of said company; and all scrip so issued shall have printed thereon a clause



to this effect. If, on the final accounting of said receiver, after the liquidation of all the obligations of said company, as herein provided, and, in case of a joint stock company, the return to the respective stockholders of their respective amounts of stock, and the scrip issued to them under this act, there shall remain a surplus in the hands of said receiver, it shall be divided by him among said stockholders, if a stock company, proportionately to their respective shares, as provided by the charter of said company, and the balance of said surplus among the last ten policy-holders of said company, or their legal representatives, in proportion to the amounts of their said respective policies; and if not a stock company, among the holders of the last ten policies issued by said company, or their legal representatives, in proportion to the amount of their said respective policies. (*Ibid*, § 10.)

**123.** The receiver of any company under this act shall have all the powers incident to the successful management of its affairs, and, to that end, authority to purchase policies issued by said company, to make any other compromise in the settlement of its outstanding obligations, and to use the corporate seal of said company, whenever necessary, in the transaction of the business of his receivership. (*Ibid*, § 11.)

**124.** The compensation of the receiver under this act shall be fixed by the Commissioner of the Insurance Department, and shall not exceed the sum of five per cent. on the amount of the assets of such company as shall come into his possession. The receiver may employ such clerks and actuaries as he may deem necessary for the proper conducting of his business as such receiver; and the said clerks and actuaries shall be paid such reasonable compensation as he may determine, subject, however, to the approval of the Commissioner of the Insurance Department; all of which compensation to said receiver, clerks, and actuaries shall be a charge on the funds of such company, and paid out of the said funds. (*Ibid*, § 12.)

**125.** It shall be the duty of either the president or secretary, or actuary of every insurance company having securities deposited in the office of the Commissioner of the Insurance Department of this State, under this act, once or more during each calendar year, and at such time or times during the ordinary business hours as said insurance company may select, to examine and compare such securities with the books of said department; and, if found correct, to execute to the Commissioner of the Insurance Department a receipt or certificate, setting forth in the same the different amounts thereof, and that the same are in the possession and custody of the Commissioner at the date of such receipt. (*Ibid*, § 13.)

## GENERAL PROVISIONS.

**126.** All corporations created by general or special laws, or by amendments to other laws for doing an insurance, or insurance and banking business, or insurance business in connection with any other business in this Commonwealth, be, and they are hereby, required to make all the deposits and reports, pay all the taxes, and shall be subject to all the provisions and restrictions of said general laws under the penalties therein provided, or which may hereafter be provided. (*Laws of 1870, p. 140, § 1.*)

**127.** All statements or descriptions in any application for or policy of insurance shall be deemed and held representations and not warranties, nor shall any misrepresentation, unless material or fraudulent, prevent a recovery on the policy. (*Laws of 1874, p. 20, § 1.*)

### ARSON AND INCENDIARISM.

**128.** If any person shall be guilty of arson, he shall be confined in the penitentiary not less than five nor more than twelve years. (*General Statutes, 1873, p. 327, § 1.*)

**129.** If any person shall willfully burn any court-house, county or public prison, or the office of any clerk of a court, or the Capitol of the Commonwealth, or any office therein or upon the Capitol or public grounds, or any surveyor's office, or other public office within this State, or the office or depot of any railroad or canal, gas or telegraph company, he shall be confined in the penitentiary not less than seven nor more than twenty-one years. (*Ibid, § 2.*)

**130.** If any person shall willfully and unlawfully burn a powder-house, tobacco-house, warehouse, storehouse, stable, barn, or any house or place where wheat, corn, or other grain, grass, fodder, hemp, cotton, wool, fruit, ice, hay, or straw is usually kept, or any other house whatever, or any stack, rick, or shock of hay, fodder, flax, hemp, cotton, straw, or grain, or pile of lumber, plank, rails, posts, hoop-poles, shingles, boards, spoke-timber, stave-timber, cross-ties, boat-gunwales, cord-wood, or other timber or wood prepared for any purpose of use or sale, or pile of tan-bark, wheat, or other grain, or any bridge or causeway upon a street, public highway, or private passway, railroad, turnpike, plank or other road, or canal, river, or other water, or steam-saw, or grist-mill, water grist, or saw-mill, or other mill or factory, gas, coal, oil, iron, or water-works, rolling-mill, railroad car, still-house, engine, wagon, buggy, or carriage, threshing machine, mowing or reaping machine, steam-boat, or other water craft or vessel, he shall be confined in the penitentiary not less than one nor more than six years. (*Ibid, § 3.*)

**131.** If any person shall willfully, maliciously, and unlawfully burn any dwelling-house which is occupied as a residence, or any charitable institution in this commonwealth, he shall be punished by confinement in the penitentiary for not less than ten nor more than twenty years, and if death ensues from such burning, such offender shall be deemed guilty of murder, and punished with death, or confinement in the penitentiary for life, at the discretion of the jury. (*Ibid, p. 328, § 4.*)

**132.** If any person shall willfully, maliciously, and unlawfully attempt to commit any of the offenses described in the four preceding sections, though the property or any part thereof be not fired or burned, he shall be confined in the penitentiary not less than three months nor more than six years. (*Ibid, § 5.*)

### EMBEZZLEMENT.

**133.** If any officer, agent, clerk, or servant of any incorporated company shall embezzle, or fraudulently convert to his own use, or

the use of another, bullion, money, bank notes, or any effects or property belonging to such corporation, or any other corporation, or any person, which shall have come to his possession, or been placed in his care or under his management, as such officer, agent, clerk, or servant, he and the person to whose use the same was fraudulently converted, if he assented thereto, shall be confined in the penitentiary not less than one nor more than ten years. (*General Statutes*, 1873, p. 335, § 1.)

**134.** For General Provisions relating to Corporations see *General Statutes*, 1873, p. 546.

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## INSURANCE STATUTES OF LOUISIANA.

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**1.** The officers of each insurance company incorporated by the laws of this State shall, within one month from the close or expiration of each year of the corporation, cause to be published in one or more daily newspapers published in the city of New Orleans, and for the term of at least one month, a full statement, under oath, of the business of the company, which statement shall contain, first, the amount of premium received during the previous year, specifying what amount was received for life insurance, for insurance against fire, what on marine policies, and what on river policies; second, the amount of losses incurred during the year, specifying and designating what amount of losses have been incurred by the different kinds of policies as aforesaid; third, the amount of capital, stating the portion of the same invested in securities, and the nature of the securities. (*Revised Statutes*, 1870, p. 371, § 1874.)

**2.** Every person acting as agent of an insurance company not incorporated by the laws of this State, and doing fire, marine, or river insurance within the city of New Orleans, shall, during the month of January of each year, cause a full statement, under oath, of the business of the agency, to be published in the manner and form and for the term, as specified in the preceding section; and for the neglect or refusal so to do, shall forfeit and pay into the city treasury the sum of one thousand dollars for each and every neglect or refusal. Whenever the parent or principal office of the agency shall publish an annual statement of its affairs, the time mentioned in the first part of this section for the publication of the affairs of the agency shall be so far changed as to correspond with the annual statement of the insurance company, and shall then be published as aforesaid, within one month from the date of the publication. (*Ibid*, p. 372, § 1875.)

**3.** There shall be collected an annual amount as a license or tax:

From each agent or representative of an insurance company, [incorporated] by or under the laws of this State, and transacting an insurance business therein, one thousand dollars; from each insurance company or agency not chartered by this State, but transacting business therein, one thousand dollars; *Provided*, That no insurance company whose license tax shall be one thousand dollars shall be liable to any assessment, State, parish, or municipal, throughout the State, other than that imposed by this article, and by section six of this act. (*Laws of 1872*, p. 51, § 1, *paragraph 15*.)

**4.** From and after the passage of this act, it shall not be lawful for any person or corporation to carry on or pursue, practice, or follow any of the trades, professions, or occupations enumerated in the foregoing sections of this act, in the State, before paying the tax levied thereon, and obtaining a license therefor, if not already licensed, from the collector of the State taxes; and no person or

corporation carrying on a profession, business, or occupation subject to the payment of a license, as herein provided, shall be allowed to collect any claims for services rendered in such professions, business, or occupation, unless he, she, or it can, upon demand, exhibit the tax collector's receipt for such license, according to law; and a failure to exhibit such license receipt, by any person or corporation liable to such license, shall, in any suit, instituted by him, her, or it, entitle the party defendant in such suit to a non-suit; and any person, firm, or corporation attempting to do business without a license shall, on written notice given by the collector to the Attorney-General or District Attorney, or District Attorney *pro tem*, be enjoined in the name of the State from proceeding further in the transaction of their respective business or vocation until such license shall have been paid. (*Laws of 1872, p. 52, § 2.*)

5. Each and every license shall expire on the thirty-first day of December in the year in which it was obtained; *Provided*, That any person, firm, or corporation engaging in any of the trades or occupations, subject to license by this act, after the first day of July in each and every year, shall be liable for only half a license. (*Laws of 1872, p. 53, § 4.*)

6. It shall be the duty of the several banks and the various insurance companies incorporated in this State, on the third Monday of April, 1874, and annually thereafter, to cause to be published in the official journal of the State, printed in the city of New Orleans, once a week for four weeks in succession, a full and complete list of the names of all parties who may have in such institution any unclaimed or uncalled for sums of money, specifying also the several amounts thereof, beginning from the dates of their respective incorporation, whenever the same are of three years standing or more at the time of such publication; whether the same may arise from deposits, dividends, interest scrip, or result from the non-payment of any drafts, bills of exchange, certificates of deposit issued payable to bearer, and which have not been presented for payment or been paid, or otherwise, or drafts, bills of exchange, or certificates of deposit, drawn in favor of such persons, or any other parties, and not subsequently paid or delivered to the owner thereof; also all interest on scrip due and unpaid for more than three years since the same became demandable, and generally all indebtedness of such institutions, in any manner whatever, of more than three years standing, or where the evidence of the fact or of the indebtedness is exclusively in possession of such institutions. (*Laws of 1874, p. 162, § 1.*)

7. The said duty of publication, according to the provisions of the first section hereof, is hereby imposed upon all incorporated institutions of this State, receiving deposits or declaring dividends on money, scrip or other evidences of indebtedness; and the same shall be verified by the affidavits annexed thereto of the president and cashier when they are made by a bank, and of the president and secretary when made by an insurance company. (*Ibid, § 2.*)

8. Each and every omission to advertise, in accordance with the provisions of this act, shall subject the corporation so offending to a penalty of one thousand dollars, recoverable before any court of competent jurisdiction, at the domicile where such corporation is established, in the name and for the benefit of the Charity Hospital of New Orleans; *Provided*, The publication herein directed is only required when the sum exceeds ten dollars, and that it shall be the

duty of the public administrator to institute all such suits, and in case such bank or other incorporated institution shall, after the institution of such suit, still omit to make the publication herein required, such bank or institution for such failure or omission shall be subjected to a further penalty of two thousand dollars, during each and every month thereafter, to be sued for and recovered in the same manner as provided for the first omission. (*Ibid*, § 3.)

9. In all cases when it shall appear that dividends of money or of scrip, or deposits, or drafts, bills of exchange, certificates of deposit, or otherwise, have remained uncalled for for a period of seven years or more, and such dividends or scrip, or interest of scrip, or drafts, bills of exchange, certificates of deposit, or otherwise, have remained uncalled for during a period of seven years or more, and such dividends or scrip, or interest of scrip, drafts, bills of exchange, certificates of deposit, or otherwise, shall stand in the names of persons who are absent and unrepresented, and have not been heard from within the period of seven years, the Public Administrator shall proceed to administer upon the same in the manner now provided by law for the administration of vacant estates. (*Ibid*, p. 163, § 4.)

10. All legal proceedings instituted by the Public Administrator under this and other acts shall be tried by preference in the district courts and in the Supreme Court. (*Ibid*, § 5.)

### ARSON AND INCENDIARISM.

11. Every person who shall willfully or maliciously set fire to or burn, in the night time, any house, ship, vessel, steamboat, or other water-craft in which there shall be, at the time, some human being usually staying, lodging, or residing at night, upon conviction thereof shall suffer death. (*Revised Statutes*, 1870, p. 168, § 841.)

12. Every person who shall willfully or maliciously set fire to or burn, in the day time, any house, ship, vessel, steamboat, or other water-craft, in which some human being shall, at the time, usually stay, lodge, or reside, upon conviction thereof shall be imprisoned at hard labor for not less than ten years and not more than twenty years. (*Ibid*, § 842.)

13. Every person who shall willfully or maliciously set fire to or burn any out-house, stable, or barn, any shop, store, office, warehouse, sugar-house, cotton-gin-house, cotton-press, cotton-pickery, school-house, church, or any building of public worship, or any other building or house not embraced and provided for in the two preceding sections, or any vessel, ship, or steamboat, or other water-craft not embraced and provided for in the two preceding sections, shall, upon conviction, suffer imprisonment at hard labor for not less than seven years nor more than twenty years. (*Ibid*, § 843.)

14. Whoever shall willfully or maliciously set fire to or burn any fences, piles of wood, shed, boards, lumber, or other combustible matter, by means of which any house or building, or any vessel, steamboat, or other water-craft, be burnt, on conviction, shall suffer imprisonment at hard labor for not less than seven nor more than fourteen years. (*Ibid*, § 844.)

15. Whoever shall attempt willfully and maliciously to set fire to any house, or building, or to set fire to any vessel, steamboat, or other water-craft, shall, on conviction, be imprisoned at hard labor for not less than five nor more than ten years. (*Ibid*, § 845.)

**16.** Whoever shall be convicted of having maliciously prepared combustible matters and put them in any place with the intent to set fire to any house or building, or to a vessel, steamboat, or other water-craft, the person thus convicted shall be sentenced to an imprisonment at hard labor for not less than five years nor more than fifteen years, although the said person had not yet set fire to the said combustible matters. (*Ibid*, § 846.)

**17.** Every person who shall willfully and maliciously set fire or burn, or attempt to set fire to or burn any bridge, shed, railroad, plankroad, railroad car, carriage, or other vehicle, or any goods, wares, or merchandise, or any stock, bale or heap of hay, fodder, grain, corn, or other produce, or any crop of cotton, grain, or produce growing or standing in the field, or any nursery, orchard, or grove of trees not his own, or any fence around any field, farm, or inclosure of another, or any cordwood in the cord, or any coal in a coal-boat, coal-yard, or in a pile on the levee, or in the street, not belonging to himself, shall, on conviction, be imprisoned at hard labor for not less than one year nor more than five years. (*Ibid*, § 847.)

**18.** Every person who shall willfully and maliciously set fire to or burn, or attempt to set fire to or burn any cotton, or bales of cotton, situated upon the levee, in the street, or banquette, in any cotton-press, or yard, or elsewhere, shall, upon conviction, suffer imprisonment at hard labor for not less than five years nor more than twenty years. (*Ibid*, § 848.)

#### INQUESTS IN CASES OF FIRE.

**19.** It shall be the duty of any one of the recorders of New Orleans, or justices of the peace, to whom application shall be made for that purpose, to visit any building where a fire may have happened, immediately after the fire shall have been extinguished, and inquire into the origin and cause of said fire, examine all witnesses whom the owners or insurers of the property destroyed may desire to have examined under oath, and make and preserve a true and correct record of *proces verbal* of their testimony, a copy of which record or *proces verbal*, certified by such recorder or justice, shall be admitted in evidence in any civil action. The party occupying or owning the property, his agent, or any one having the property in charge at the time of the fire shall be notified by the recorder or justice of the examination. (*Ibid*, § 1876.)

#### EMBEZZLEMENT.

**20.** Any servant, clerk, broker, agent, consignee, trustee, attorney, mandatary, depositary, common carrier, bailee, curator, testamentary executor, administrator, tutor, or any person holding any office of trust under the executive or judicial authority of this State, or in the service of any public or private corporation or company, who shall wrongfully use, dispose of, conceal, or otherwise embezzle any money, bill, note, check, order, draft, bond, receipt, bill of lading, or any other property which he shall have received for another, or for his employer, principal, or bailor, or by virtue of his office, trust, or employment, or which shall have been intrusted to his



care, keeping, or possession by another, or by his employer, principal, or bailor, or by any court, corporation, or company; upon conviction thereof, or of having aided or abetted in the commission thereof, or of having been accessory thereto, before or after the fact, shall suffer imprisonment at hard labor not exceeding seven nor less than one year. (*Revised Statutes*, 1870, p. 178, § 905.)

**21.** For General Provisions relating to Corporations see Revised Statutes, 1870, pp. 135-137, 142-145.

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# INSURANCE STATUTES OF MAINE.

*Revised by Hon. Joshua Nye, Insurance Commissioner.*

## CONSTITUTIONAL PROVISIONS CONCERNING CORPORATIONS.

**1.** Corporations shall be formed under general laws, and shall not be created by special acts of the Legislature, except for municipal purposes, and in cases where the objects of the corporation can not otherwise be attained; and, however formed, they shall forever be subject to the general laws of the State. (*Part 3, Art. § 14.*)

**2.** All incorporated insurance companies may exercise the powers and shall be subject to the duties and liabilities contained herein and in chapter forty-six, as far as consistent with the provisions of their charters. (*Revised Statutes, 1871, p. 429, § 1.*)

**3.** The business of such companies shall be managed by not less than seven directors, who shall be chosen by the stockholders at the time and place and in the manner provided in their by-laws; be stockholders and citizens of the State, and hold their offices one year, and until others are chosen and qualified in their stead. Vacancies may be filled at a meeting called for the purpose. In elections and other business, stockholders have one vote for each share. The directors shall choose one of their number president. (*Ibid, § 2.*)

**4.** Every such company or the directors thereof, as often as once a year, shall, by ballot, elect a secretary, who shall be the clerk of the company and sworn to the faithful discharge of his duty; besides other duties required by the by-laws of the company, he shall keep a true record of all the votes of the stockholders and of the directors, and a true list of the stockholders, and of the number of shares held by each, and record every transfer of shares in a book kept for the purpose. The directors may appoint such other officers as they think necessary. (*Ibid, p. 420, § 3.*)

**5.** The secretary shall call special meetings of such company, besides any meeting for which the by-laws provide, to be held at the time and place, and for the purposes required in writing by the proprietors of one-fifth of the capital stock; if the by-laws of such company prescribe no mode of calling such meeting, it may be notified in the manner prescribed in the act of incorporation for calling the first meeting. (*Ibid, § 4.*)

**6.** No insurance company shall be incorporated in this State with a capital less than one hundred thousand dollars, to be paid in at the periods and in the proportions required by the charter. (*Ibid, § 5.*)

**7.** If any such company becomes insolvent before its whole



capital is paid in by the stockholders, any creditor thereof may have his action on the case against any one or more of the stockholders, whose proportion of the whole stock allowed by the charter is not paid in, to recover against them in their individual capacity towards his debt, an amount not exceeding the sum due from them on their shares. (*Ibid*, § 6.)

8. The capital and other assets of insurance companies incorporated in this State, except such as may be needed for immediate use, shall be invested in the funded debt or bonds of the United States, or of any of the New England States, or in the bonds or securities of county, city, or other municipal corporations of said New England States, or in the purchase of real estate in fee, or loans on mortgage of real estate or deposit in savings banks of said States, or in the bonds or stocks of incorporated companies of said States of an undoubted character for credit, insurance company stock or bonds excepted, and in no case shall any such funds be loaned on the security of names alone. (*Ibid*, § 7, as amended by laws of 1873, p. 104, § 5.)

9. Such company may loan to citizens of this State, any portion not exceeding one-half of its capital stock, or respondentia, or bottomry; but not unless three-fourths of all the directors agree to such loan, and enter their consent thereto at large on the records of the corporation, to be laid before the stockholders at their next meeting. (*Ibid*, § 8.)

10. Such company may make insurance on vessels, freight, money, goods, and effects, against captivity of persons, on the life of any person during his absence at sea, on money lent upon bottomry and respondentia, against fire on dwelling-houses and other buildings, and on merchandise or other property within the United States, and fix the premiums and terms of payment; but no risk on any one bottom or on one building and contents shall exceed ten per cent. of its capital stock actually paid in. (*Ibid*, § 9.)

11. Insurance effected by a husband or wife on a dwelling house owned by the insured and on the furniture therein, shall be valid for all the furniture, though part is owned by the husband and part by the wife. (*Ibid*, p. 431, § 10.)

12. All policies of insurance shall be signed by the president, or in case of his death, inability, or absence, by any two of the directors, and countersigned by the secretary; and they shall be binding upon the company as if executed under its corporate seal. (*Ibid*, § 11.)

13. Said companies shall not, directly or indirectly, be concerned in buying or selling any goods, wares, merchandise, or commodities whatever. (*Ibid*, § 12.)

14. The directors, at such times as their charter or by-laws prescribe, shall make dividends of so much of the profits of the company as they think advisable; but moneys received and notes taken for premiums on risks, which are undetermined at the time of making such dividends, shall not be part of said profits. (*Ibid*, § 13.)

15. After any diminution of the capital stock by losses, depreciation, or otherwise, no dividend shall be made until such diminution is supplied by actual funds, or the value restored. (*Ibid*, § 14.)

16. Any marine insurance company may, by the by-laws or votes duly passed for that purpose, divide among the stockhold-

ers thereof, and the persons insured therein, in proportion to the stock owned by such stockholders, and to the amount of premiums paid by the insured on risks terminated, all the clear profits of the company above six per cent. per annum on its capital stock. Before such division is made, all arrearages of dividends to stockholders, required to make up their annual dividends equal to six per cent. per annum, shall first be paid. (*Ibid*, § 15.)

**17.** Once in every three years, and oftener if required by the stockholders, the directors shall lay before them at a meeting, an exact and particular statement of the affairs of the company, showing their profits, if any, after deducting losses and dividends. (*Ibid*, § 16.)

**18.** If the company sustains losses to an amount equal to their capital stock, and the president or directors, after knowing the same, make any new or further insurance, the estates of all who make such insurance, or consent thereto, shall be jointly and severally liable for the amount of any loss which occurs under such insurance. (*Ibid*, § 17.)

**19.** An agent authorized by an insurance company, whose name shall be borne on the policy, shall be deemed the agent of said company in all matters of insurance; any notice required to be given to said company, or any of its officers, by the insured, may be given to such agent; any application for insurance or valuation, or description of the property, or of the interest of the insured therein, if drawn by said agent, shall be conclusive upon the company, but not upon the insured, although signed by him; all acts, proceedings, and doings of such agent with the insured, shall be as binding upon the company as if done and performed by the person specially empowered or designated therefor by the contract. (*Ibid*, p. 432, § 18.)

**20.** All statements of description or value in an application or policy of insurance, shall be deemed representations and not warranties; erroneous descriptions or statements of value or title by the insured shall not prevent his recovering on his policy unless the jury find that the difference between the property as described and as it really existed, contributed to the loss or materially increased the risk; a change in the property insured, its use or occupation, or a breach of any of the terms of the policy by the insured, shall not affect the policy unless they materially increase the risk; nor shall any misrepresentation of the title or interest of the insured in the whole or a part of the property insured, real or personal, unless material or fraudulent, prevent his recovering on his policy to the extent of his insurable interest. (*Ibid*, § 19.)

**21.** In case of loss, under a policy against fire, the insured shall notify the company, or its agent, thereof, and within a reasonable time afterwards, shall deliver to the same, as particular an account of the loss and damage as the nature of the case will admit, stating therein his interest in the property, what other insurance, if any, existed thereon, in what manner the building insured, or containing the property insured, was occupied at the time of the fire, and by whom and when and how the fire occurred, so far as he knows or believes, to be sworn to before some disinterested magistrate, who shall certify that he has examined the circumstances attending the loss, and has reason to and does believe such statement is true; the insured shall, if so requested, within ten days after notice of loss, exhibit to the agent or company his books of account,

bills of parcels and any other vouchers in his possession, and shall, if requested, submit to an examination under oath, in the place of his residence; no other preliminary proof of any kind shall be required before commencing an action against such company. All provisions contained in any policy of insurance, in conflict with any of the provisions hereof, are null and void, and all contracts of insurance made, renewed, or extended in this State, or on property within this State, shall be subject to the provisions hereof. (*Ibid*, § 20.)

**22.** The provisions in the foregoing sections relating to the amount of capital stock to be owned by any insurance company, and the division of the same into shares, and dividends of profit thereon, and other provisions incidental to the nature of its fund, and such of said provisions as relate to the liability of directors or stockholders in case of deficiency of capital, and the regulations concerning the business of any such company contained in sections eight and nine, shall not be construed as applicable to mutual life insurance companies; but the other proceeding and the following provisions shall be binding on such companies, so far as consistent with their charters. (*Ibid*, p. 433, § 21.)

**23.** Domestic mutual fire insurance companies may make insurance for a term, not exceeding seven years, on dwelling-houses, stores, shops, and other buildings, and on household furniture, merchandise, and other property, the contents of any building within this State, against loss or damage by fire originating in any cause other than by design in the insured. (*Ibid*, § 22.)

**24.** No by-law, rule, or requirement, made by any such company, shall be binding on any person insured, to vacate his policy, unless it is distinctly set forth in the policy or renewal. (*Ibid*, § 23.)

**25.** Every person insured by such company, or his legal representatives or assigns continuing to be insured therein, shall be deemed a member of the company during the term specified in his policy, and no longer. (*Ibid*, § 24.)

**26.** The insured, before receiving his policy, shall deposit his promissory note for the sum of money determined by the directors; such part of it as the by-laws require, shall be immediately paid towards incidental expenses and indorsed thereon; and the remainder shall be payable in such installments as the directors from time to time require for the payment of losses and other expenses, to be assessed on all who are members when such losses or expenses happen, in proportion to the amounts of their notes. A married woman may insure her property and give her note, with or without her husband, and it shall be as valid against her as if she was unmarried. (*Ibid*, § 25.)

**27.** A policy of insurance, issued by life, fire, or marine insurance company, domestic or foreign, and a deposit note given therefor, shall be deemed one contract; and a loss under such policy or other equitable claims may be proved in defence to said note, though it was endorsed or assigned before it was due; and where a company becomes insolvent, the maker of the note shall only be liable for the equitable proportion thereof which accrued during the solvency; and if the insolvency occurs within sixty days of the date of the note, it shall be void except for the amount of the maker's claim, if any, on the company. No insured shall be held to contribute to any losses or expenses beyond the amount of his deposit note. At the expiration of his term of insurance, his note, on

payment of all assessments for which it is liable, shall be relinquished to him, except as provided in the next section. (*Ibid*, § 26.)

**28.** The company shall have a lien against the assured, on the buildings insured and the land appurtenant thereto, for the amount at any time due on said note, to commence from the time of the recording of the same, as hereinafter provided, and to continue sixty days after the expiration of the policy on which such note is given; if the company causes a certificate of its claim to such lien, signed by the secretary, to be recorded by the Register of Deeds for the county or district, and, during the pendency of such lien, an attachment of such property, in a suit on said note in favor of the company, shall have priority of all other attachments or claims; and execution, when recovered, may be levied on it accordingly. (*Ibid*, p. 434, § 27.)

**29.** If an assessment, made as provided in the twenty-seventh section, remains unpaid for thirty days after demand made by any agent of the company on any person liable to pay the note, the directors may sue for and collect the amount due on such note; and the amount collected shall remain in the treasury of the company subject to the payment of such sums as might otherwise be assessed on the note; and the overplus at the expiration of the policy shall be the property of the assured. (*Ibid*, § 28.)

**30.** Upon the decease of a member, the lien of the company shall remain good on the property insured to the amount due on the deposit note, and the policy shall descend to the executor or administrator of the deceased for the benefit of the estate during its continuance, unless voluntarily surrendered or forfeited by the provisions of the charter of the company. (*Ibid*, § 29.)

**31.** The directors of each such company shall cause a detailed account of their expenses for the year next preceding their annual meeting, the amount of property actually insured at that time, the amount due on their premium notes, and amount of all debts due to and from the company, to be laid before the stockholders at their annual meeting in each year; and a copy thereof shall be printed in some newspaper published in the county, if any, otherwise in the State paper; but no such company, having an accumulated fund for the payment of losses, shall be required to publish the names of its debtors. (*Ibid*, § 30.)

**32.** The salary or compensation for services of the directors, treasurer, and secretary, shall be fixed by the stockholders at their annual meeting, and no stockholder or other person shall be allowed more than fifteen votes by proxy. (*Ibid*, § 31.)

**33.** The mortgagee of any real estate shall have a lien upon any policy of insurance against loss by fire procured thereon by the mortgagor, to take effect from the time he files with the secretary of the company a written notice, briefly describing his mortgage, the estate conveyed thereby, and the sum remaining unpaid thereon. If the mortgagor, by a writing by him signed, and filed with the secretary, consents that the whole of the sum secured by the policy, or so much as is required to discharge the amount due on the mortgage at the time a loss occurs, shall be applied to the payment of the mortgage, it shall be so paid by the company, and the mortgagee's receipt therefor shall be a sufficient discharge of the company therefor. (*Ibid*, p. 435, § 32.)

**34.** If the mortgagor does not so consent, the mortgagee may,



at any time within sixty days after a loss, enforce his lien by a suit against the mortgagor, and the company as his trustee, in which judgment may be rendered for what is found due from said company upon the policy, notwithstanding the time of payment of the whole sum secured by the mortgage has not arrived. (*Ibid*, § 33.)

**35.** The amount so recovered shall be applied first to the payment of the costs of the suit and officer's fees on the execution, and next to the payment of the amount due on the mortgage; and the balance, if any, shall be retained by the company and paid to the mortgagor. If the company assumes the defense of the suit, it shall be liable to the plaintiff for costs in the same manner as the principal defendant, defending the suit, would be. (*Ibid*, § 34.)

**36.** When two or more mortgagees claim the benefit of the three preceding sections, their rights shall be determined according to the priority of their claims and mortgages by the principles of law. (*Ibid*, § 35.)

**37.** When any mortgagee claims the benefit of said sections, any policy of insurance, which he had procured or subsequently procures on his interest in the same property by virtue of his mortgage, shall be void, unless it is consented to by the company insuring the mortgagor's interests. (*Ibid*, § 36.)

**38.** When any insurance company, incorporated in this State, desires to deposit any portion of its stocks or other securities with any officer of this State, as a pre-requisite to the establishment of agencies in any other State in compliance with the law thereof, the Treasurer of State is to receive such stocks or other securities, and to hold the same on deposit and in trust for the benefit of all the policy-holders in said company. (*Ibid*, § 37.)

**39.** The Treasurer shall then furnish such company with a certificate or certificates of the fact, in his official capacity, embracing the items of the security so deposited, the amount and par value of each, and his opinion of their value. (*Ibid*, § 38.)

**40.** He shall hold such securities on deposit in accordance with these provisions, but such company may receive and collect the interest or dividends on them, and withdraw them, from time to time, on depositing in lieu thereof others of like character and value, to be determined by the Treasurer. (*Ibid*, p. 436, § 39.)

**41.** The Treasurer on being satisfied of the repeal or alteration of the law of such other State, disqualifying such company from continuing its business therein, shall return the securities on demand. (*Ibid*, § 40.)

**42.** When such company desires to relinquish its business out of the State, the Treasurer, on application thereof and on the oath of the president and secretary, that its assets are ample to meet all the existing demands against it, shall deliver its securities. (*Ibid*, § 41.)

**43.** If any such company fails, while its securities are so on deposit, the Treasurer shall demand of its secretary or clerk, and he shall furnish a full and complete list of the names and residences of all policy-holders and others having claims upon the company; and they shall be notified forthwith through the post-office by the Treasurer of the condition of the company; and he shall state in the notice, that the securities held by him will be disposed of, and the proceeds, after paying expenses, paid over in a ratable proportion upon their claims, properly authenticated, and the time when such dividend will be made; but nothing in the forego-

ing provisions shall be construed to impose any liability on this State on account of any delinquency of the Treasurer. (*Ibid*, § 42.)

**44.** Such company, on so depositing its securities, shall pay to the Treasurer the sum of five dollars for each certificate granted by him; and in case of proceeding under the provisions of the preceding section the Treasurer shall retain, as compensation for the services thereby required by him, the sum of two per cent. on the amount received and disbursed by him. (*Ibid*, § 43.)

**45.** An Insurance Commissioner shall be appointed by the Governor and Council, who shall hold his office three years unless sooner removed, but shall not at the same time be examiner of banks. He shall have no compensation for his official services except the fees prescribed in the following sections; and if they amount to more than twenty-five hundred dollars a year, the balance shall be paid by him into the Treasurer of State; and he shall keep an accurate account of all fees received, and settle the same annually with the Governor and Council. He may administer oaths in the performance of his official duties in any part of the State and at any time. He shall keep a correct account of his doings and of all matters relating to the subject of insurance and insurance companies, on which he is officially called to act. (*Ibid*, § 44.)

**46.** He shall annually examine, or cause to be examined, every domestic joint stock insurance company, and mutual life insurance company, to ascertain its ability to meet its engagements and do a safe insurance business; and make such other examinations as he regards necessary for the safety of the public or the holders of policies. In all such cases he may require the officers to produce for examination any and all books and papers of the company, and to answer, on oath, all questions propounded to them in relation to the condition and affairs of the company; and any officer who refuses to produce any such books or papers upon his demand, or to be sworn, or to answer any such questions, shall be subject to a penalty not exceeding two hundred dollars. (*Ibid*, p. 437, § 45.)

**47.** Every such insurance company shall organize within two years after its charter is granted, otherwise the charter shall be void; and upon such organization shall inform the Commissioner thereof. No such company shall for the first time commence business by issuing policies, until the Commissioner first examines and ascertains that the company has complied with the terms of its charter, paid in its capital stock, and become qualified to act; and he shall then issue to it his certificate of that fact, for which service he shall receive from it twenty dollars and all traveling expenses; and annually thereafter upon examination, so long as the same is found solvent and responsible to do business, the Commissioner shall issue to it a like certificate and receive a like fee. (*Ibid*, § 46.)

**48.** If on examination the Commissioner thinks that any domestic insurance company is insolvent, or that it is in such a condition as to render its further proceedings hazardous to the public or its policy-holders, he shall apply to a justice of the supreme judicial court to issue an injunction restraining the company in whole or in part from further proceeding with its business. Such justice, or any other justice of said court, may thereupon, either with or without notice, issue such temporary injunction, or if on notice such temporary or permanent injunction as he may think proper, either of which he may afterwards modify, vacate, or perpetuate, and may

pass such orders and decrees, appoint receivers to receive the assets of the company, and such masters, and do any other act conformable to the general rules of chancery practice as may in his opinion be requisite for the safety of the public and for the best interests of all parties concerned, all which orders and decrees he may in like manner enforce. All such proceedings shall be at once made known to the clerk of the courts for the county, who shall enter them on his docket, place them on file, and record them in the records of the court. The clerk's fees shall be audited and allowed by the court, and paid from the assets of the company. (*Ibid*, § 48.)

**49.** No foreign insurance company shall transact any insurance business in this State, unless it first obtains a license therefor from the Commissioner. Before receiving such license, it shall furnish the Commissioner with a true certified copy of its charter and by-laws, with a statement under oath, signed by its president or secretary, showing its financial condition, according to a form supplied by the Commissioner. Upon receiving such copies and statement, the Commissioner shall grant a license, if he thinks it ought to be granted, which shall authorize the company to do an insurance business in this State, subject to the laws of the State, until the first day of July then next; and annually thereafter such license may be renewed, so long as he regards the company responsible and safe, in all cases to terminate on the first day of July next succeeding. For such license and each renewal the company shall pay the Commissioner twenty dollars. (*Ibid*, p. 438, § 49.)

**50.** No person shall act as agent of any insurance company until he has produced to the Commissioner and filed with him a duplicate power of attorney from the company, or its authorized agent, authorizing him to act as such agent. Upon filing such power the Commissioner shall issue a license to him, if the company has received a license to do an insurance business in this State; and such license shall continue until the first day of July then next, and may be renewed from year to year on producing a certificate from the company that his agency is continued. For each such license or renewal thereof the Commissioner shall receive the sum of one dollar. And if any person solicits, receives, or forwards any risk or application for insurance to any insurance company, without first receiving such license, or fraudulently assumes to be an agent, and thus procures risks and receives money for premiums, he shall forfeit not more than fifty dollars for each offense; but any policy issued on an application thus procured shall bind the company, if otherwise valid. (*Ibid*, § 50.)

**51.** Any person may be licensed by the Commissioner as insurance broker, to negotiate contracts of insurance, and to effect insurance for others than himself for a compensation, and by virtue thereof he may place risks or effect insurance with any insurance company of this State, or with the agents of any foreign insurance company who have been licensed to do an insurance business in this State, but with no other. For such license he shall pay the sum of five dollars, which shall authorize him thus to act until the first day of July then next; and on payment of the same fee his license may be renewed from year to year afterwards, ending annually on the first day of July. Any person without such license, assuming to act as such broker, shall forfeit not more than fifty dollars. (*Ibid*, § 51.)

**52.** When the Commissioner thinks any licensed foreign insurance company is in failing condition or unsafe, he may, on reasonable notice, suspend its right to do insurance business in the State until the disability is removed. And if the company or any of its agents, after such suspension or the injunction mentioned in section forty-eight, issue any new policies, such agent or company shall forfeit not exceeding two hundred dollars. And to enable the Commissioner to act in the premises, he may at any time require of any such company a full statement of all its affairs bearing upon its responsibility in the form prescribed by him. (*Ibid*, p. 439, § 52.)

**53.** When any foreign insurance company doing business in this State is dissolved, restrained, or prohibited from doing business in the place where it is incorporated, and when under the last preceding section the Commissioner regards the proceedings advisable, he may apply to the supreme judicial court or any justice thereof, either in term time or vacation, setting forth the facts, and thereupon the court or justice may appoint a receiver or receivers, to take possession of the assets of the company in this State, and collect, sell, or dispose of the same as the court or justice may decree, and divide the proceeds pro rata among the creditors in this State, who prove their claims before said court or justice before the dividend is made; and the balance, if any, shall be paid over to the company or assigns. The proceedings herein provided for shall conform to the provisions of section forty-eight. The receivers may maintain any action on or for any such assets in their own names as receivers, subject to all equities which exist between the original or previous parties. (*Ibid*, § 53.)

**54.** Every domestic insurance company, and every foreign insurance company doing business in this State shall annually, by the thirty-first day of January, render to the Commissioner an exact statement, under oath, of its condition as it existed on the thirty-first day of December previous, or its last exhibit, setting forth its condition as required by blanks furnished by the Commissioner. (*Ibid*, § 54, as amended by laws of 1874, p. 145, § 1.)

**55.** Every foreign insurance company doing business in this State shall annually cause to be published three weeks successively, in some daily or weekly paper printed in the county where said company has a duly authorized agent, or takes policies, a condensed statement of its condition, conformable to its last annual report to the Commissioner; and any such insurance company which shall neglect or refuse to publish such statement shall forfeit not less than fifty dollars. (*Ibid*, § 55, as amended by laws of 1874, p. 145.)

**56.** The Commissioner shall preserve, in a proper form, the statements of the condition of every company examined or caused to be examined by him, and all which shall be rendered to him as herein required; and shall annually report to the legislature the general condition of the insurance companies doing business in this State, with the names and locations of their authorized agents in this State, and such suggestions as he thinks proper, and in connection therewith, shall prepare an abstract of all returns and statements made to him by insurance companies. (*Ibid*, § 56.)

**57.** When the Commissioner learns that the net cash funds of any life insurance company doing business in this State, are not equal to its liabilities, including the net value of its policies according to the "Combined Experience or Actuaries' Rate of Mortality," with interest at four per cent. per annum, he shall give notice to



such company and its agents to cease issuing policies within this State. He may purchase and use the life valuation tables adopted by the insurance department of Massachusetts for this and all purposes of valuation. When he is satisfied that the funds of such company have become equal to its liabilities, valuing its policies as aforesaid, he shall give notice to such company and agents that its business may be resumed. If any officer or agent, after such notice of suspension is given, issues any new policy in behalf of such company, he shall forfeit for each offense a sum not exceeding three hundred dollars; and the delivery of a policy in this State by mail or otherwise shall be deemed an issuing of such policy. (*Ibid*, § 57.)

58. When the Commissioner suspends the operations of a company, or, on application, refuses to countermand such suspension, it may appeal to a judge of the supreme judicial court by presenting to him a petition therefor in term time or vacation, and he shall fix a time and place of hearing which may be at chambers and in vacation, and cause notice thereof to be given to the Commissioner; and after the hearing, he may affirm or reverse the decision of the Commissioner; and the decision of such justice shall be final. (*Ibid*, § 58.)

59. All penalties provided by this act may be recovered in an action of debt in the name of the State, and inure to the State when collected. The County Attorney for the county where the forfeiture is incurred, shall sue therefor at the direction of the Commissioner. (*Ibid*, § 59.)

60. On application in writing to the Commissioner by an officer of any insurance company doing business in this State, stating that he has reason to believe and does believe that any person has procured of said company an insurance by false representations, or that the company has sustained a loss by the fraudulent act of the insured, or with his knowledge or consent, and requests an investigation thereof, said Commissioner, or such magistrate as he appoints, shall summon and examine, under oath, at a time and place designated by him, any persons, and require the production of all books and papers necessary for a full investigation of the facts, and make report thereof with the testimony by him taken to the company making such application. Such company shall pay the Commissioner or magistrate his expenses for making such investigation and ten dollars a day for his services, and the fees of the witnesses to be taxed as in the supreme judicial court. (*Ibid*, § 60.)

61. The word domestic, when used in this chapter, means companies incorporated by this State; and the word foreign means companies not so incorporated. (*Ibid*, p. 441, § 61.)

62. No foreign fire or marine insurance company shall be admitted to do business in this State unless it have a *bona fide*, paid up, unimpaired capital, if a stock company, of at least two hundred thousand dollars, well invested in or secured by real estate, bonds, stock, or securities other than names alone, or if a mutual company, cash assets, to the amount aforesaid; and no foreign life insurance company shall be admitted to do business in this State unless it have a *bona fide*, paid-up, unimpaired capital, if a stock company, of at least one hundred thousand dollars, well invested in or secured by real estate, bonds, stock or securities other than names alone; or if a mutual company, cash assets to the amount aforesaid. And no stipulations or conditions shall deprive the courts of this State of

jurisdictions of actions against such companies, nor limit the time of commencing them to a period of less than two years from the time the cause of action accrues. (*Ibid*, § 62, as amended by act approved February 24, 1875.)

**63.** Any person having a claim against any foreign insurance company may bring a suit therefor in the courts in this State, including trustee suits, and service made on any authorized agent of said company shall be valid and binding on the company, and hold it to answer to such suit; and the judgment rendered therein shall bind the company as a valid judgment in every respect, whether the defendants appear or not. In case no agent of such company can be found, such notice or service served on the State Insurance Commissioner, who shall immediately notify said insurance company by mail, shall be valid and binding on the company as though served on their agent. Unless any such judgment is paid within thirty days after demand made upon any such agent or the Insurance Commissioner by the officer holding the execution, the Commissioner may, on notice and hearing of the parties, suspend the power of the company to do business in this State until it is paid; and if the company or any agent thereof issues any policy in this State during such suspension, said company and agent shall each forfeit not exceeding one hundred dollars. But any policy so issued shall be binding on the company in favor of the holder. (*Ibid*, § 63, as amended by laws of 1874, p. 160.)

**64.** All notices and processes which, by any law, by-law, or provision of any policy, any insured or other person has occasion to give or serve on any such company, may be given to or served on its agent, or on the Insurance Commissioner, as provided in said section sixty-three, with like effect as if given or served on the principal. Such agents and the agents of all domestic companies shall be regarded as in the place of the company in all respects regarding any insurance effected by them. The company shall be bound by their knowledge of the risk and of all matters connected therewith. Omission and misdescriptions known to the agent shall be regarded as known by the company, and waived by it the same as if noted in the policy. (*Ibid*, § 64, as amended by laws of 1874, p. 161.)

**65.** Whenever, after setting aside a sum equal to the full amount of premiums on outstanding marine risks, together with one-half of all premiums on existing fire and inland risks, the net assets of any insurance company with a specific capital, do not amount to more than three-fourths of its capital stock, the company shall, by assessing the stock, restore its capital to the legal amount. Shares on which such assessment is not paid within sixty days after demand upon the owner thereof shall be forfeited, and ordered by a vote of the directors to be sold at public auction, seven days' notice of the sale thereof shall be given in some daily or weekly paper published in the place where such company is located, the proceeds of sale, after deducting expenses and the assessment due on such shares, shall be paid to the owner or his representative; *Provided*, That whenever the capital stock of any insurance company shall be impaired as aforesaid, such company may, by a majority vote of the stock, at a meeting of the stockholders legally called, reduce its capital, by canceling its shares *pro rata* to the number thereof, or may reduce the par value of its shares, or such company may thus reduce its capital stock and also assess as hereinbefore provided; but no such company shall reduce its capital stock as

aforesaid more than twenty per cent. thereof, nor to a sum less than one hundred thousand dollars. (*Laws of 1873, p. 102, § 1.*)

**66.** Any insurance company incorporated in this State having a specific capital, which does not within three months after receiving notice from the Insurance Commissioner that its capital is thus impaired, satisfy him that it has fully complied with the provisions of this act relating thereto, shall be proceeded against according to the provisions of the forty-eighth section of the act to which this is additional. (*Ibid, p. 103, § 2.*)

**67.** Whenever, after setting aside a sum equal to that required by the previous sections, the cash assets of any foreign insurance company having a specific capital, doing business in this State, do not amount to more than three-fourths of its legal capital, the company shall, by assessing its stock for the difference, or in some other way, repair its capital to its legal amount, and unless it do so within three months after notice from the Insurance Commissioner, shall no longer be permitted to do business in this State, and the Commissioner shall thereupon proceed as provided in sections fifty-two and fifty-three of said chapter of the Revised Statutes, if in his opinion such proceeding is necessary. (*Ibid, § 3.*)

**68.** The assignee of any policy, the assignment of which has been assented to by the company or its agent, may sue the company on the policy in his own name, and all sums due on such policy may be recovered in such suit, subject to any defense existing against the original party, the assignee so suing to hold the judgment or its proceeds subject to the claims and equities of any other parties who may be interested therein. (*Ibid, p. 104, § 6.*)

**69.** It shall be the duty of the Insurance Commissioner, whenever he deems it necessary for the protection of policy-holders in this State, to visit and examine any insurance company not incorporated in this State and doing business by agencies therein. He may employ such assistants as are necessary in making the examination; all necessary expenses for such examination without the State shall be borne by the company so examined; *Provided*, That in relation to the affairs of any company incorporated by or organized under the laws of any State of the United States, it shall be optional with the said Commissioner to accept the certificate of the Insurance Commissioner or Superintendent of the State, under the laws of which the said company was organized, as to its standing and condition, or to proceed to investigate its affairs as herein-before provided. (*Ibid, § 7.*)

**70.** For the purposes aforesaid the Commissioner, or any person whom he may empower, shall have free access to all the books and papers of any insurance company doing business in this State, and may examine under oath its officers or agents relative to its business and condition. If any such company, its officers or agents, refuse to submit to such examination, or to comply with any provisions of this act in relation thereto, the authority of such company to do business in this State shall be revoked until such time as satisfactory proof is furnished to the Commissioner that the company is in a sound and solvent condition. (*Ibid, § 8.*)

**71.** The Governor and Council may allow such reasonable compensation for services rendered and expenses incurred in enforcing the laws relating to insurance companies as they deem proper. (*Ibid, § 9.*)

**72.** Receivers appointed for any insurance company of this

State, as provided in said chapter forty-nine, shall have the same power and rights of action, and the course of proceeding so far as applicable shall be the same as prescribed for receivers of banks in the forty-seventh chapter of the Revised Statutes. (*Ibid*, p. 105, § 10.)

**73.** Whenever the directors of any mutual fire insurance company, or any mutual marine insurance company, shall make an assessment, or call on its members for money, or shall by vote determine that there exists a necessity for such assessment or call, they, or any person interested in the company as an officer, policy-holder, or creditor, may apply to the supreme judicial court for any county, by a petition in the nature of a bill in equity, praying the court to examine said assessment or call, or to determine the necessity therefor, and all matters connected therewith, and to ratify, amend or annul the assessment or call, or to order that the same be made as law and justice may require; provided such application, when made by any party except the corporation, or a receiver, or the Insurance Commissioner, shall rest in the discretion of the court. And whenever the directors shall unreasonably neglect to make an assessment or call, to satisfy an admitted or ascertained claim upon the company, any judgment creditor, or any person holding such admitted or ascertained claim, or the Insurance Commissioner, may make the application to the court. Upon such application, if made by the directors, or upon order of court, if made by application of any other party, the directors shall set forth the claims against the company, its assets and all other facts and particulars appertaining to the matter. (*Act approved February 21, 1875, § 1.*)

**74.** The court before which such petition is filed shall order notice to be given to all parties interested, by publication or otherwise; and the petition may be filed in vacation, in which case the order of notice may be made by any justice of the court; and upon the return thereof, the court shall proceed to examine the assessment or call, or the necessity therefor, and all matters connected therewith; and any parties interested may appear and be heard thereon, and all questions that may arise shall be heard and determined as in other equity cases. The court may refer the appointment or calculation to any competent person, and upon the examination may ratify, amend or annul the assessment or call, or order one to be made. In case the assessment or call is altered or amended, or one is ordered to be made, the directors shall forthwith proceed to vote the same in legal form, and the record of such vote shall be set forth in a supplemental bill or answer. (*Ibid*, § 2.)

**75.** Whenever the court shall appoint a master or auditor to make the apportionment or calculation for an assessment under the provisions of this act, such master or auditor shall appoint a time and place to hear all parties interested in the assessment or call, and shall give personal notice thereof, in writing to the Insurance Commissioner, and through the post-office, or in such other manner as the court shall direct, so far as he may be able, to all persons liable upon said assessment or call. Any said auditor or master shall hear the parties, and make report to the court of all his doings respecting such assessment or call, and all matters connected therewith, and all parties interested in such report or assessment shall have the right to be heard by the court respecting the same, in the same manner as is above provided. (*Ibid*, § 3.)



**76.** When an assessment or call has been, as above provided, ratified, ascertained, or established, a decree shall be entered which shall be final and conclusive upon the company and all parties liable to the assessment or call as to the necessity of the same, the authority of the company to make or collect the same, the amount thereof, and all formalities connected therewith. And where an assessment or call hereafter made shall be altered or amended by vote of directors and decree of the court thereon, such amended or altered assessment or call shall be binding upon all parties who would have been liable under it as originally made, and in all legal proceedings shall be held to be such original assessment or call. All proceedings above provided for shall be at the cost of the company, unless the court for cause otherwise order; and in all cases the court may control the disposition of the funds collected under these proceedings, and may issue all necessary processes to enforce the payment of such assessment against all persons liable therefor. (*Ibid*, § 4.)

**77.** Whenever it shall appear to the presiding judge of the court before which such petition is pending, that the net proceeds of any assessment or call will not be sufficient to furnish substantial relief to those having claims against the company, said judge may decree that no assessment shall be collected; and when upon the application of the Insurance Commissioner, or any person interested, said judge shall be of opinion that further attempts to collect any assessment then partially collected will not benefit those having claims against the company, he may stay the further collection of said assessment. (*Ibid*, § 5.)

**78.** Every insurance company or association which is or may be admitted to do business in this State, not incorporated or associated under the laws thereof, shall, as hereinafter provided, annually pay a tax upon all premiums received, whether in cash or in notes absolutely payable, in excess over losses actually paid during the year, on contracts made in this State, for the insurance of life, property, or interests therein, at the rate of two per cent. per annum. (*Laws of 1874, p. 177, § 1.*)

**79.** In determining the amount of tax due, under the preceding section of this act, there shall be deducted on each case, from the full amount of premiums received the amount, if any, paid for losses during the year; unused balances on notes taken for premiums on open policies; and all sums repaid or allowed for return premiums on canceled policies, and the legal reserve required on life policies; and the tax shall be computed on the net amount thus actually received by said companies or their agents for the year, as aforesaid. (*Ibid*, § 2.)

**80.** Every company or association which, by the provisions of this act, is required to pay a tax, shall on or before the thirty-first day of January, in each year, make a return, under oath to the Insurance Commissioner, stating the amount of all premiums received by said company, either in cash or notes absolutely payable, during the year ending on the thirty-first of December next previous, and also the amount to be deducted therefrom, under the provisions of this act, specifying the whole amount thereof, and also the classes of deductions and amount of each class. Said tax shall be assessed by the State Treasurer, upon the certificate of the Insurance Commissioner, to be seasonably furnished therefor, on or before the first day of April, the same to be paid on or before the first day

of May then next. It shall be the duty of the Treasurer to notify the several companies of the assessment, and unless the same be paid as aforesaid, the Commissioner shall suspend the right of the company to do any further business in the State until the tax is paid. (*Ibid*, § 3.)

**81.** The legal reserve required on life policies, which section two of chapter two hundred and fifty-one of the public laws of eighteen hundred and seventy-four allows to be deducted from the premiums received, in computing the tax on life insurance companies, shall be held and construed to mean the amount to be annually set aside as a reserve from premiums received in this State during the year for which the return is made and the tax assessed. (*Act approved February 24, 1875, § 1.*)

**82.** In case any insurance company or association shall refuse or neglect to make the return required by section three of chapter two hundred and fifty-one, of the public laws of eighteen hundred and seventy-four, including each and every item therein specified, as provided by said chapter, or by this act explanatory of and additional to the same, the Treasurer shall make the assessment of the tax prescribed in said chapter two hundred and fifty-one, on such net amount as he may think just, with such evidence as he may be able to obtain; and from such assessment there shall exist no right of appeal on the part of the company or association failing to make such return. (*Ibid*, § 2.)

### SUITS AGAINST INSURANCE COMPANIES.

**83.** A parish in the actual occupancy of a church, meeting-house, or other building used for religious purposes may insure it against loss by fire. And in case of such loss the company insuring shall not deny the occupancy of the parish, its legal existence, or its right to maintain an action on the policy. (*Revised Statutes, 1871, p. 208, § 13.*)

**84.** In actions by inhabitants of this State against insurance companies established by any other State or country, on policies of insurance, signed or countersigned by agents in this State, on property or lives, or against accidents in this State, service shall be sufficient if made on the person who signed or countersigned such policies, or on any agent or attorney of either such company, or left at his last and usual place of abode thirty days before the return day of the suit; but the court may, in any case, order further notice. (*Revised Statutes, 1871, p. 619, § 20.*)

### DISTRIBUTION OF LIFE INSURANCE MONEY.

**85.** A sum of money received for insurance on his (deceased party's) life, deducting the premium paid therefor within three years' with interest, does not constitute a part of his estate for payment of debts, or purposes specified in the first section of chapter sixty-six, when the intestate leaves a widow or issue, but descends one-third to his widow, and the remainder to his issue; if no issue, the whole to the widow, and if no widow the whole to the issue. It may be disposed of by will, though the estate is insolvent. (*Revised Statutes, 1871, p. 568, § 10.*)

**86.** All life policies and money due thereon are exempt from attachment and from all claims of creditors during the life of the insured, when the annual cash premium paid does not exceed one hundred and fifty dollars; but when it exceeds that sum, and the premium was paid by the debtor, his creditors have a lien on the policies for such sum over one hundred and fifty dollars per year as the debtor has paid for two years, subject to any pledge or assignment thereof made in good faith. (*Ibid*, p. 442, § 65.)

### INQUESTS IN CASES OF FIRE.

**87.** Whenever any building or vessel in port, or their contents, are wholly or partially destroyed by fire, originating on the premises, unless the cause thereof shall be clearly accidental, it shall be the duty of the mayor of the city or the municipal authorities of the town or plantation where the fire occurs, to give notice thereof at once to the sheriff of the county or his deputy, and said sheriff or deputy shall thereupon immediately summon three good and lawful men to appear at the place of the fire at a time to be fixed as soon as possible, to inquire when, how, and by what means the fire originated, and in case of the non-appearance of the persons so summoned, the officer shall appoint some other persons to complete said number, and it shall be the duty of all persons so summoned to appear and act under such summons unless excused for reasonable cause. (*Revised Statutes*, 1871, p. 294, § 29, as amended by laws of 1873, p. 96, § 1.)

**88.** When the persons thus summoned appear, or the number be made complete, the sheriff or deputy shall call over their names, and then in view of the land on which such property was destroyed, he shall administer the following oath:

You solemnly swear that you will diligently inquire and true presentment make, in behalf of the State, when, how, and by what means the fire which has here occurred was caused; and that you will return a true inquest according to your best knowledge and such evidence as shall be laid before you. (*Ibid*, § 30, as amended by laws of 1873, p. 96, § 2.)

**89.** The sheriff or deputy shall issue subpoenas for witnesses, returnable forthwith at such time and place as he therein directs. Such witnesses shall be allowed the same fees and their attendance shall be enforced in the same manner as if they had been served with a subpoena in behalf of the State to attend any court before such sheriff or deputy. They shall be sworn, and their testimony shall be reduced to writing by the presiding sheriff or deputy, or some person by his direction, and by them subscribed. (*Ibid*, § 31, as amended by laws of 1872, p. 96, § 2.)

**90.** The jury, after hearing the testimony and making all needful inquiries, shall draw up and deliver to such sheriff or deputy, their inquisition under their hands, in which they shall find and certify when, how, and by what means such fire was caused. Said inquisition and testimony thus subscribed shall be filed by said sheriff or deputy with the clerk of the courts for said county within one week thereafter. (*Ibid*, p. 95, § 32, as amended by laws of 1873, p. 96, § 2.)

**91.** The fees of the officer and the expenses of said inquisition shall be the same as prescribed for the coroner in cases of inquests

upon dead bodies, and the fees of the jurors shall be two dollars each for the inquest, with traveling fees, the same as witnesses in court; and the amount thereof shall be added to the county tax of the town where the fire occurred and be paid and collected as other county taxes. (*Ibid*, § 33, as amended by laws of 1873, p. 96, § 3.)

## ARSON AND INCENDIARISM.

**92.** Whoever willfully and maliciously sets fire to the dwelling-house of another, or to any building adjoining thereto, or to any building owned by himself or another, with the intent to burn such dwelling-house, and it is thereby burnt, in the night time, shall be punished with death. If he proves, and the jury find, that there was no person lawfully in such dwelling-house at the time, or if the offense was committed in the day time, he shall be punished by imprisonment for life. (*Revised Statutes*, 1871, p. 830, § 1.)

**93.** Whoever willfully and maliciously sets fire to a dwelling-house owned wholly or partly by himself or another, with intent to burn such dwelling-house, another person being lawfully therein, and it is thereby burnt, shall be punished by imprisonment for life. (*Ibid*, § 2.)

**94.** Whoever willfully and maliciously sets fire to a meeting-house, court-house, jail, town-house, college, academy, or other building erected for public use, or to any store, shop, office, barn, or stable of another within the curtilage of a dwelling-house, so that it is thereby endangered, and such public or other building is thereby burnt in the night-time, shall be punished by imprisonment for life, or any term of years; but if such offense was committed in the day-time, or without the curtilage of and without endangering a dwelling-house, by imprisonment not less than one, nor more than ten years. (*Ibid*, § 3.)

**95.** Whoever willfully and maliciously burns any building of another not mentioned in the preceding section, or any vessel, bridge, lock, dam, or flume, of another, shall be punished by imprisonment not less than one, nor more than ten years. (*Ibid*, § 4.)

## EMBEZZLEMENT.

**96.** If an officer, agent, clerk, or servant of a person, co-partnership, or corporation, not an apprentice, nor less than sixteen years of age, embezzles or fraudulently converts to his own use, or takes and secretes with intent to do so, without consent of his employer or master, any property of another in his possession or under his care, by virtue of his employment, he shall be deemed guilty of larceny, and be punished accordingly. (*Revised Statutes*, 1871, p. 883, § 7.)

**97.** For General Provisions relating to Corporations see *Revised Statutes* 1871, pp. 393-399, 676; *Laws of 1871*, pp. 143, 153-155; *Laws of 1872*, pp. 12, 43; *Laws of 1873*, pp. 76, 77, 84; *Laws of 1874*, p. 131.



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# INSURANCE STATUTES OF MARYLAND.

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## CONSTITUTIONAL PROVISIONS CONCERNING CORPORATIONS.

**1.** Corporations may be formed under general laws, but shall not be created by special act, except for municipal purposes, and in cases where, in the judgment of the legislature, the object of the corporation can not be attained under general laws. All laws and special acts pursuant to this section may be altered from time to time or repealed. (*Article 3, § 47.*)

## HOME INSURANCE COMPANIES.

**2.** Corporations may be formed in this State, under the provisions hereinafter set forth, by any five or more persons, citizens of the United States, and a majority of them citizens of this State, or, if unnaturalized, residents of this State, making oath that they *bona fide* intend to become citizens of the United States without unnecessary delay, who may desire to form a body corporate or politic for any of the following purposes: (*Supplement to Code, 1868, p. 37, part of § 14.*)

For the formation of fire, life, marine, accident, and cattle and all live stock, and other kinds of insurance companies; provided they shall have their principal office in this State. (*Ibid, § 17.*)

**3.** The capital stock of any insurance company incorporated under this article shall not exceed the sum of two millions of dollars, and except in the case of mutual insurance companies, shall not be less than one hundred thousand dollars; and at least one-fifth of the whole capital stock shall be paid in before the said company shall be competent to transact the business for which it shall have been incorporated. (*Ibid, p. 58, § 96.*)

**4.** Any corporation incorporated under this article for insurance purposes, except for the insurance of the lives of persons, is hereby authorized to include in its certificate of incorporation, as among the other objects and purposes for which said corporation is formed, the following, that is to say: to guarantee the payment, punctual performance, and collection of promissory notes, bills of exchange, contracts, bonds, accounts, claims, rents, annuities, mortgages, choses in action, evidences of debt, and certificates of property or value, and the titles to property, real or personal, on such terms as may be established by a board of directors of said company; to receive on storage, deposit, or otherwise, merchandise, bullion, specie, plate, stocks, bonds, promissory notes, certificates and evidences of debt, contracts or other property, and to take the management, custody, and charge of real or personal estate or property, and to advance money, securities, and credits upon any prop-

erty, real, personal, or mixed, on such terms and with all such powers of sale and other disposition thereof as shall be established by the charter or by-laws of such corporation: *Provide*l, That the corporate title of any company having among its other purposes those enumerated in this section shall designate the same as a "security" as well as an insurance company. (*Ibid*, § 97.)

5. Corporations formed under the provisions of this article, for insurance purposes, may be formed either as mutual or stock companies, or as mutual and stock companies combined, as shall be determined and declared in the certificate of incorporation of said company, (*Ibid*, p, 59, § 98.)

6. Every corporation formed under the provisions of this article for the purposes of life insurance is hereby authorized also to insure individuals against accident, and to grant, purchase, or dispose of annuities, unless it be otherwise provided in its charter or by-laws. (*Ibid*, § 99.)

7. Every life insurance company incorporated under this article, shall have a guaranty capital of not less than one hundred thousand dollars, which shall be invested either in securities of the United States, of the State of Maryland, or of the city of Baltimore, and the same shall, before said company shall commence issuing policies, be deposited in the treasury of this State as a guaranty for the payment of the policies of insurance issued by said company; and the said company from time to time, as they shall deem proper, may sell and dispose of the said securities, and exchange and re-deposit the same with the said treasurer, under such rules and regulations for said exchange and re-deposit as the said treasurer shall direct, the said company confining the said business of sale, disposition, and exchange of said securities to either or all of said securities above named in this section; and the interest and profits accruing and made on said securities, and the sale or exchange thereof, shall be collected by and paid to said company. (*Ibid*, § 100.)

8. It shall hereafter be the duty of the president, or vice-president and secretary, or other proper officer, of each company or association organized under the laws of this State to transact the business of insurance, annually, on the first day of February, or within one month thereafter, to prepare, under their own oath, and deposit in the office of the Comptroller of the Treasury, a statement of the condition of such company or association on the thirty-first day of December then next preceding, exhibiting the following facts and items, in the following form, namely:

*First*.—The capital stock of the company.

*Second*. — The property and assets held by the company or association, specifying: First. The value, or as near as may be, of the real estate held by such company or association. Second. The amount of cash on hand and deposited in banks to the credit of the company or association, specifying in what bank the same are deposited. Third. The amount of cash in the hands of agents and in course of transmission. Fourth. The amount of loans secured by bonds and mortgages, constituting the first liens on real estate on which there shall be less than one year's interest due or owing. Fifth. The amount of loans on which interest shall not have been paid within one year previous to such statement. Sixth. The amount due the company on which judgments have been obtained. Seventh. The amount of stocks of this State, of the United States, of any incorporated city of this State, and of any other stocks owned by the



company, specifying the amount, number of shares, and par and market value of each kind of stock. Eighth. The amount of stocks held thereby as collateral security for loans, with the amount loaned on each kind of stock, its par value and the market value. Ninth. The amount of assessments on stock or premium notes, paid and unpaid. Tenth. The amount of interest actually due and unpaid. Eleventh. The amount of premium notes on hand on which policies are issued.

*Third.*—The liabilities of such company, specifying: First. The amount of losses due and yet unpaid. Second. The amount of claims for losses resisted by the company. Third. The amount of losses incurred during the year, including those claimed and not yet due, and of those reported to the company upon which no action has been taken. Fourth. The amount of dividends declared and due and remaining unpaid. Fifth. The amount of dividends, either cash or scrip, declared, but not yet due. Sixth. The amount of money borrowed, and security for the payment thereof. Seventh. The amount of policies outstanding. Eighth. The amount of all other existing claims against the company or association.

*Fourth.*—The income of the company or association during the preceding year, specifying: First. The amount of cash premiums received. Second. The amount of notes received for premiums. Third. The amount of interest money received. Fourth. The amount of income received from other sources.

*Fifth.* The expenditures during the preceding year, specifying: First. The amount of losses paid during the year, stating how much of the same accrued prior, and how much subsequent, to the date of the preceding statement, and the amount at which such losses were estimated in such preceding statement. Second. The amount of dividends paid during the year. Third. The amount of expenses paid during the year, including commissions and fees to agents and officers of the company or association. Fourth. The amount paid in taxes. Fifth. The amounts of all other payments and expenditures.

The statement of any company or association, the capital of which is composed in whole or in part of notes, shall, in addition to the foregoing, exhibit the amount of notes originally forming the capital, and also what proportion of said notes is held by such company or association, and considered capital. Every insurance company or association organized under the laws of this State, failing to make and deposit such statement, or to reply to any inquiry of the Comptroller of the Treasury relating to the condition of such company, or to submit its books and papers when demanded, to the inspection and examination of the Comptroller, shall be subject to the penalty of five hundred dollars for every month that such company shall continue thereafter to transact any business of insurance. It shall be the duty of the Comptroller of the Treasury to cause to be prepared and furnished to each of the companies, and to the attorneys of companies incorporated by other States and foreign governments, printed forms of the statements required by this act; and he may, from time to time, make such changes in the form of such statements as shall seem to him best adapted to elicit from the companies a true exhibit of their condition in respect to the several points hereinbefore enumerated. (*Laws of 1870, p. 452, § 1.*)

9. Every company as aforesaid shall cause the statement rendered by it to the Comptroller to be published on the first Monday

in the month of March, in the same year, daily, for one week, in one or more newspapers, of the place where said company is located; and if any company, as aforesaid, shall fail to make the required return of its condition, within the time here designated, or to make the publication thereof within the month of March aforesaid, the said company shall be liable to a penalty of fifty dollars for each omission for every day thereafter until the return shall have been rendered, or the publication made as required; said penalty to be payable into the treasury of the State, and recoverable in like manner as other fines and penalties. (*Ibid*, p. 454, § 2.)

## FOREIGN INSURANCE COMPANIES.

**10.** It shall not be lawful for any insurance company, incorporated under the laws of any other State of the United States, or by any foreign government, directly or indirectly, to take risks, or transact any business of insurance in this State, unless possessed of the amount of actual capital required of similar companies formed under the provisions of this article; and any such company desiring to transact any such business as aforesaid, by an agent or agents in this State, shall appoint such agent or agents, who shall reside in this State, and shall file in the office of the Clerk of the Superior Court of Baltimore City, a certified copy of the vote or resolution of the directors appointing such agent, to be recorded at the cost of such agent, in a book to be specially procured for that purpose, which appointment shall continue until some other agent shall be in like manner appointed in his place, and the appointment certified and recorded as aforesaid. (*Ibid*, p. 60, § 102.)

**11.** Said company shall also file in said clerk's office, to be recorded as aforesaid, a certified copy of its charter, together with a statement under the oath of the president or vice-president and secretary, and to be renewed annually in the month of January of each year, setting forth the name of the company, and the place where located, the amount of capital, and the amount actually paid in, with a detailed statement of its assets and indebtedness, the amount of losses adjusted and unpaid, the amount incurred and in process of adjustment, and any other claims existing against the company; and in the case of life insurance companies, the said certificates shall contain a statement under the oaths of said certifying officers, that the said company has invested in good securities naming them, an amount equal to that required of similar companies authorized to be incorporated under this article, and that such securities are held in trust, and by whom, for the benefit of persons who may effect insurance in said company. The first certificate herein required shall be filed by all companies doing business in this State, on or before the first day of July, eighteen hundred and sixty eight, and any person who shall, after the first day of July, eighteen hundred and sixty-eight, act as agent of any insurance company which has not complied with the provisions in this section contained, shall be subject to a penalty of five hundred dollars for every day he shall so act, to be recovered as other fines and penalties are recovered in this State, one-half to the use of the informer, and one-half to the use of the State. (*Ibid*, p. 61, § 103.)

**12.** Every insurance company transacting business in the

State of Maryland shall annually cause to be published, once a week, for three successive weeks, in at least one newspaper published in the city or county of this State in which the principal office or agency of said company may be located, a certified copy of the annual statement which they are required, by the thirty-second section of the act passed at January session eighteen hundred and seventy-two, chapter three hundred eighty-eight, to submit to the Insurance Commissioner; *Provided*, That the publication for fire and marine insurance companies shall be made during the month of January, and that for life insurance companies during the month of February, a copy of the first publication to be furnished to the Insurance Commissioner. (*Ibid*, § 105, as amended by laws of 1874, p. 10, § 1.)

**13.** Any insurance company incorporated under the laws of any other State may acquire by purchase, or any other manner, and take, receive, hold, use, employ, manage, dispose of, or deal with any property, real, personal, or mixed, and situate in the State of Maryland, which may be necessary or proper to enable any of said insurance companies to erect for office or business purposes, or to enable any of said insurance companies to foreclose any mortgages that may be due said companies for loans made; *Provided*, That all transactions as herein permitted shall be in accordance with the laws now in force regulating such transactions on the part of insurance companies incorporated under the laws of this State; all laws of this State regulating and providing for the purchase and holding of real estate by insurance companies of this State shall be construed to bear with equal effect in law upon companies of other States purchasing or holding real estate in the State of Maryland. (*Ibid*, § 106, as amended by laws of 1874, p. 10, § 1.)

**14.** Any corporation not chartered by the laws of this State, which shall transact business therein, shall be deemed to hold and exercise franchises within this State, and shall be liable to suit in any of the courts of this State, on any dealings or transactions therein. (*Supplement to Code*, 1868, p. 94, § 209.)

**15.** Process issued by any court or justice of the peace of this State, against any corporation incorporated under its laws, may be served on any president, director, manager, or other officer of such corporation, and all suits which shall hereafter be brought against any corporation which has been or may be incorporated under the general incorporation laws of this State, shall be brought in the county or city of Baltimore, as the case may be, in which the certificate of incorporation is required to be, and has been recorded. (*Ibid*, § 210.)

**16.** Suits may be brought in any court of this State, or before a justice of the peace, against any corporation not incorporated under its laws, but deemed to hold and exercise franchises herein, or against any joint-stock company, or association doing business in this State, by a resident of this State, for any cause of action, and by a plaintiff not a resident of this State, when the cause of action has arisen, or the subject of the action shall be situated in this State; and process in such suits may be served as provided in the next preceding section, and also upon any agent of such corporation or joint-stock company or association; and in case of service of process on an agent, notice of such process shall be left at the principal office of said corporation, joint-stock company, or association, if there be such office in this State, provided nothing in this article

shall prevent or affect the issue of attachments against corporations as now or hereafter allowed by law. (*Ibid*, p. 95. § 211.)

**17.** If any corporation or joint-stock companies embraced in the next preceding section, after any liability shall occur within this State, or after any contracts shall have been made by it with any resident of this State, shall cease to have any agent in this State, and no president, director, or manager of such corporation or joint-stock company or association can be found in this State, then, in such case, service of any writ or process issuing from the courts of this State, on the person who was last the agent of such corporation or joint stock company in this State, shall be deemed sufficient service, if a copy of such process be served on the president or manager, or two directors of such corporation or joint stock company, wherever they may be found, and an affidavit of such service be made before any person authorized by the laws of this State to take the acknowledgments of deeds. (*Ibid*, § 212.)

### INSURANCE DEPARTMENT.

**18.** There is hereby established a distinct bureau in the office of the Comptroller of the Treasury, to be known as the Insurance Department, which shall be charged with the execution of the laws of this State in relation to insurance; and the Comptroller of the Treasury is hereby authorized and directed to assign a clerk in charge of said department, who shall be known as the Insurance Commissioner for the State of Maryland, and who shall receive an annual salary of twenty-five hundred dollars, payable out of the fees of his office, and shall hold his office during the term of the Comptroller making the appointment, or until his successor is appointed and qualified, unless sooner removed by the Comptroller; and the said Insurance Commissioner shall give bond to the State of Maryland in the sum of twenty-five thousand dollars, for the faithful discharge of his duties, and no person who is a director, officer, or agent of, or directly or indirectly interested in any insurance company, except as insured, shall be appointed as such Commissioner by the Comptroller, and the rulings or decisions made by said Commissioner shall always be subject to revision by the Comptroller. (*Code*, 1860, p. 383, § 27, as amended by laws of 1872, p. 684.)

**19.** It shall be the duty of the Insurance Commissioner—First, to see that all laws of this State respecting insurance companies are faithfully executed, to file in his office every charter or declaration of, or organization of a company, with certificate of the Attorney-General, and on application of the corporation, to furnish to them certified copies thereof. Second, He shall, as soon as practicable in each year, calculate or cause to be calculated in his office, the net value, on the thirty-first day of December of the previous year, of all the policies in force on that day, in each life insurance company doing business in this State, organized by authority of this State, and of every other life insurance company doing business in this State, that shall fail to furnish to him, as hereinafter provided, a certificate of the Insurance Commissioner of the State by whose authority the company was organized, or by the State in which it may elect to have its policies valued and its deposit made, in case the company is chartered by the government of the United States,



or by any State not having an insurance department, giving the net value of all policies in force in the company on the thirty-first day of December of the preceding year, which calculation of the net value of each policy shall be based upon the American Experience Table of Mortality, and four and one-half per cent. interest per annum; and the net value of a policy at any time shall be taken to be the single net premium which will at that time effect the insurance, less the value at that time of the future net premiums called for by the Table of Mortality and rate of interest designated above. Third, In case it is found that any life insurance company doing business in this State has not on hand the net value of all its policies in force, after all other debts of the company and claims against it, exclusive of capital stock, have been provided for, it shall be the duty of the Insurance Commissioner to publish the fact that the then existing condition of the affairs of the company is below the standard of legal safety established by this State, and he shall require the company at once to cease doing new business, and he shall immediately institute proceedings to determine what further shall be done in the case; and it is hereby made the duty of the Insurance Commissioner, after having determined, as above, the amount of the net value of all the policies in force, to see that the company has that amount in safe, legal securities, of the description and character hereafter provided for in this act, after all its other debts and claims against it, exclusive of capital stock, have been provided for. Fourth, He shall accept the valuations made by the Insurance Commissioner of the State, under whose authority a life insurance company was organized, or that of the State in which it may elect to have its policies valued, when such valuations have been properly made on sound and recognized principles and legal basis not less than the above; *Provided*, The company shall furnish to the Insurance Commissioner of this State a certificate from the Insurance Commissioner of such State, setting forth the value, calculated on the data designated above, of all the policies in force in the company on the previous thirty-first day of December, and stating that after all the other debts of the company, and claims against it at that time, were provided for, the company had, in safe securities of the character specified in this act, an amount equal to the net value of all its policies in force, and that said company is entitled to do business in its own State, and every life insurance company doing business in this State during the year for which the statement is made, that fails promptly to furnish the certificate aforesaid, shall be required to make full detailed list of policies and securities to the Insurance Commissioner of this State, and shall be liable for all charges and expenses consequent upon not having furnished said certificate. Fifth. For every company doing fire insurance business in this state, he shall calculate the re-insurance reserve for unexpired fire risks, by taking fifty per cent. of the premiums received on all unexpired risks that have less than one year to run, and a pro rata of all premiums received on risks that have one year or longer to run, and in marine and inland insurance he shall charge all the premiums received on unexpired risks as a re-insurance reserve; *Provided*, That the foregoing requirement of reinsurance reserve when applied to companies organized under the laws of foreign governments shall be calculated only upon the business of such company in the United States, and the basis of the reserve fund so required shall be the assets of such company

held and invested in the United States. Sixth. Having charged against a company the reinsurance reserve as above determined, for fire, inland, and marine insurance, and adding thereto all debts and claims against the company, he shall, in case he finds the capital stock of the company impaired to the extent of forty per cent., give notice to the company to make good its whole capital stock within sixty days; and if this is not done, he shall require the company to cease to do new business within this State, and shall thereupon, in case the company is organized under authority of this State, immediately institute legal proceedings, as required in this act, to determine what further shall be done in the case; and any company receiving the aforesaid notice of the Insurance Commissioner to make good its whole capital stock within sixty days, shall forthwith call upon its stockholders for such amounts as will make its capital equal to the amount fixed by the charter of said company; and, in case any stockholder of such company shall neglect or refuse to pay the amount so called for, after notice personally given, or by advertisement, in such time and manner as the said Insurance Commissioner shall approve, it shall be lawful for the said company to require the return of the original certificate of stock held by such stockholder, and, in lieu thereof, to issue new certificates for such number of shares as the said stockholder may be entitled to, in the proportion that the ascertained value of the funds of the said company may be found to bear to the original capital of the said company; the value of such shares, for which new certificates shall be issued, to be ascertained under the direction of the said Commissioner, the company paying for the fractional parts of shares; and, it shall be lawful for the directors of such company to create new stock and dispose of the same, and to issue new certificates therefor, to any amount sufficient to make up the original capital of the company. Whenever the capital stock of any joint stock fire or marine insurance company of this State becomes impaired, the Insurance Commissioner may, in his discretion, permit the said company to reduce its capital stock and the par value of its shares in proportion to the extent of impairment; *Provided*, That in fixing such reduced capital, no sum exceeding twenty-five thousand dollars shall be deducted from the assets and property on hand, which shall be retained as surplus assets; *And provided further*, That the capital stock shall not be reduced to an amount less than one hundred thousand dollars. And whenever he shall have reason to believe that any company is insolvent or fraudulently conducted, or that its assets are not sufficient for carrying on the business of the same, or during any non-compliance with the provisions of this act, he shall make complaint thereof to the judge of the superior court of Baltimore city, or any judge of the circuit court of the county where the company or agency may be located, as the case may be, which judge shall, upon the requisition of the Commissioner, appoint a commission consisting of the Insurance Commissioner and two disinterested and competent persons, whose duty it shall be to examine every detail of the business and condition of said company, and report in writing the result of such examination to the judge appointing them, who shall, if in his judgment the charges of fraud, neglect or abuse, as charged by the Insurance Commissioner, is sustained by the said report, at once issue an injunction suspending the business of said company. Seventh. It shall be the duty of the Insurance Commissioner, after he has

notified a life insurance company, organized under authority of this State, to cease doing new business until the net value of its policies in force is equal to that called for by the standard of safety established by the State, at once to cause a rigid examination in regard to all the affairs of such company; in case it shall appear that there is no fraud or gross incompetency or recklessness shown to exist in the management, he may, upon publishing the facts in the case, permit such company to continue in charge of its business for one year; *Provided*, There is, in his opinion, reason to believe that the company may eventually be able to re-establish the legal net value of all its policies in force; at the end of the year named above, he may renew the permission, in case, on examination, he is satisfied that the company is likely to retrieve its affairs; but, in case the Insurance Commissioner does not permit the company to continue in the control of its old business, it is hereby made his duty to institute the necessary proceedings for the protection of its policy-holders, in accordance with the laws of this State; to publish the result of his examination of the affairs of any company whenever he deems it for the interest of the public so to do, in one or more papers of this State. Eighth. He shall institute, or cause to be instituted, if approved by the Comptroller, the necessary proceedings, under the laws of this State, to close the affairs of any company of this State which shall appear to him, upon examination, to be insolvent or fraudulently conducted; to report in detail, through the Comptroller, to the Attorney-General, any violation of the laws relative to insurance companies, their officers, or agents, or the business of insurance; to furnish to the companies required by this act to report to him the necessary blank forms for the statement required; and, at the request of any person, and on payment of the fee, to give certified copies of any record or paper in his office, when he deems it not prejudicial to public interest so to do, and to give such other certificates as this act provides for. Ninth. He shall preserve, in permanent form, a full record of his proceedings, and a concise statement of the condition of each company or agency visited or examined, and report annually to the Comptroller, on or before the first day of December, his official acts; the fees received and expenses of his department for the year then to end, and pay into the treasury all excess of receipts over disbursements; the condition of companies doing business in this State, and such other information as will exhibit the affairs of his department, a copy of which report he shall forward to the Insurance Commissioner or other similar officer of every other State, and to each company doing business in this State, and, on request, to communicate to the Insurance Commissioner of any other State any facts which, by law, it is his duty to ascertain, respecting companies of this State doing business within such other State. Tenth. To adopt and renew, from time to time, when necessary, with the approval of the Governor, a seal of office, an impression and description whereof, with the Governor's certificate of approval, shall be filed with the Secretary of State, and it shall be his duty to see that no company is permitted to insure lives in this State whose charter authorizes it to do fire, marine, or inland insurance business. Eleventh. The Insurance Commissioner, for the purposes of examinations authorized by law, has power to summon and examine any person being within this State, under oath, which he may administer, relative to the affairs and

condition of any company; or for probable cause, to visit, at its principal office, wherever it may be, any insurance company, not of this State, and doing business in this State, for the purpose of investigating its affairs and condition; and to revoke, with the approval of the Comptroller, its certificate in this State, if it does not permit an examination; to revoke or modify any certificate of authority, when any conditions prescribed by law for granting it no longer exist; and the Insurance Commissioner, with the approval of the Comptroller, has also power to institute suits and prosecutions, either by the Attorney-General or such other attorney as the Comptroller may designate, for any violation of this act, and the Comptroller is a necessary party to any proceedings instituted for the purpose of closing up the affairs of any company, when the same shall not be in the name of the State of Maryland. (*Ibid*, § 28, as amended by laws of 1872, p. 685.)

**20.** If any person, body politic, or corporate, shall make, negotiate, or solicit within this State any contract of insurance, or shall effect an insurance or insurances, or pretend to effect an insurance or insurances, or receive and transmit an offer or offers of insurance or insurances, or receive or deliver a policy or policies of insurance, or connect any other person or persons with them in any policy they may at the time hold, or advertise, or circulate, any card, circulars, or notice, open or keep any office for the transaction of said business, without complying fully with all the provisions of this act, shall be subject to the fines imposed by section thirty-six of this act; and it shall be the duty of the Comptroller to publish annually, in the month of June, in at least two newspapers, one of which shall be published in Baltimore city, the names of all general agents authorized to do business in this State, together with the names of the companies they are licensed to represent. (*Ibid*, § 29, as amended by laws of 1872, p. 691.)

**21.** No declaration of organization, or charter of an insurance company formed under any general law of this State, and no alteration or amendment thereof shall be operative until it has been submitted to the Attorney-General for examination, and found by him to be in accordance with the provisions of this act and of such general law, and not inconsistent with the constitution and laws of this State, and so certified by him and delivered to the Insurance Commissioner, and before any insurance company of this State shall do any business, the Insurance Commissioner shall examine the officers of said company under oath, which examination shall be certified to under oath of said Commissioner, that the capital herein required of the company named in the charter, according to the nature of the business proposed to be transacted by such company to an amount of not less than one hundred thousand dollars, has been paid in, in money, and is held by the board of directors, subject to their actual control, according to the provisions of the charter of said company, or has been by them invested in securities negotiable, and worth in the market not less than the sum of one hundred thousand dollars, or if a mutual company, that it has received, and is in actual possession of, the promises, or *bona fide* engagements of insurance or other securities, as the case may be, to the full extent, and of the value required by law; and the name and residence of the maker of each premium note forming part of the capital or assets, and the amount of such note shall be reported



to the Insurance Commissioner, and the corporators or officers of such company shall be required to certify under oath, that the capital exhibited to the Insurance Commissioner is *bona fide* property of the company; which certificate shall be filed in the office of the Insurance Commissioner; *Provided, however,* That the provisions of this act shall not apply to mutual fire insurance companies heretofore chartered by the laws of this State and now doing business; and any officer or the Commissioner swearing falsely in regard to the provisions of this section shall be deemed guilty of perjury, and shall be subject to the penalty or penalties prescribed for such offense by the laws of this State. (*Ibid*, § 30, as amended by laws of 1872, p. 691.)

**22.** No person shall act as agent or solicitor in this State for any company not of this State, in any manner whatever relating to risks, until the provisions of this act have been complied with on the part of the company or association, and there has been granted to said company or association, by the Insurance Commissioner, a certificate of authority or license, for which said company or association shall pay into the State Treasury the sum of three hundred dollars; and if a tax of one and one-half per cent. on the gross amount of premiums charged or collected for said company or association during the last license year—which report of premiums the agent is required to make under oath to the Insurance Commissioner—shall exceed the price of said license, there shall be paid into the treasury, before a license shall be renewed for the ensuing year, the whole excess of the one and one-half per cent. over and above the cost of license; *Provided,* That all licenses shall expire on the first day of May in each year, and any company applying for admission into the State shall pay in like proportion for the fractional part of a year. In addition to the above license or tax, there shall be paid by each company doing business in this State the following fees to defray the expenses of executing the provisions of this act: Upon filing the declaration or certified copy of charter, twenty-five dollars. Upon filing the annual statement or certificate in lieu thereof, twenty dollars. For each certificate of authority (which each sub-agent or solicitor is hereby required to obtain) and certified copy thereof, two dollars. For every copy of any paper filed in the department, the sum of twenty cents per folio; and for affixing the official seal to such copy and certifying to the same, one dollar. For valuing policies of life insurance companies, thirty dollars per million of insurance or any fraction thereof. For official examinations of companies under this act, the actual expenses incurred; *Provided,* That the filing of the papers with the Insurance Commissioner, as provided by this act, shall be in lieu of all papers now required by law to be filed with the Comptroller and the clerk of the superior court of Baltimore city. (*Ibid*, § 31, as amended by laws of 1872, p. 692.)

**23.** Every insurance company, including individuals, partnerships, joint stock associations, and corporations, conducting any branch of insurance business in this State, must transmit to the Insurance Commissioner a statement of its condition and business for the year ending on the preceding thirty-first day of December, which statement shall be rendered on the first day of January following, or by fire and marine insurance companies within thirty days, and by life insurance companies within sixty days thereafter, except that foreign companies shall transmit their statement of

business, other than that done in the United States prior to the following first day of July, which statements must be in form, and state the particulars required by the blanks prescribed by the Comptroller; and the Insurance Commissioner may require at any time statements from any company doing business within this State, or from any of its officers or agents, on such points as he deems necessary and proper, to elicit a full exhibit of its business and standing; all of which statements, herein required, must be verified by the signatures and oath of the president or vice-president, with those of the secretary or actuary; no company having neglected to file a statement required of it, within the time and manner prescribed, shall do any new business after notification by the Insurance Commissioner, while such neglect continues; and any company or association neglecting to make and transmit any statement required, shall forfeit one hundred dollars for each day's neglect, and any person, or the officers of any company, knowingly making a false statement in any report to the Insurance Commissioner, shall be liable for the fines and penalties imposed by this article; the Insurance Commissioner shall allow, in addition to the assets now provided for the reserve of insurance companies, all interest due, and such proportion of deferred and uncollected premiums, shown due by the above required statements, as in his judgment is a legal and proper credit. (*Ibid*, § 32, as amended by laws of 1874, p. 587.)

**24.** No insurance company, not of this State, nor its agents, shall do business in this State until it has filed with the Insurance Commissioner of this State a written stipulation, duly authenticated by the company, agreeing that any legal process affecting the company, served on the Insurance Commissioner, or the party designated by him, or the agent specified by said company, to receive service of process for the company, shall have the same effect as if served personally on the company within this State, and if such company should cease to maintain such agent in this State, so designated, such process may thereafter be served on the Insurance Commissioner; but so long as any liability of the stipulating company to any resident of this State continues, such stipulation can not be revoked or modified, except that a new one may be substituted so as to require or dispense with service at the office of said company within this State, and that such service of process, according to this stipulation, shall be sufficient personal service on the company; the term process includes any writ, summons, or order whereby any action, suit, or proceeding shall be commenced, or which shall be issued in, or upon any action, suit, or proceedings. (*Ibid*, § 33, as amended by laws of 1872, p. 694.)

**25.** Before any insurance company shall commence business in this State, the following conditions, in addition to those imposed by the preceding sections of this act, must be complied with: It must be fully organized. If it be a company not of this State, a copy of its charter, duly accepted, or its declaration of organization, or deed of settlement, duly approved and certified by the Insurance Commissioner or other proper officer of its own State or nation, with his certificate that the company is entitled to assume risks and issue policies therein, must be filed with the Insurance Commissioner of this State. The capital stock of no insurance company (mutual insurance companies excepted), incorporated by this State, or incorporated by the laws of another State or country, and doing business in this State, whether fire, life, marine, or inland insurance, shall be

less than one hundred thousand dollars. An amount equal to the reinsurance reserve of all insurance companies shall be invested in the bonds or treasury notes of the United States, or bonds or stocks of this or any other State of the United States, or of any incorporated city or corporation of this or any other State having legal authority to issue the same, bearing interest, or it may be invested in real estate for their office or business purposes only, or on ground-rents or loaned on mortgages of unincumbered real estate in this or any other State of the United States, worth at least double the amount loaned thereon, exclusive of buildings, except where such buildings are insured, and the policies duly assigned as additional security, or loaned on pledges of any security named in this section or on the policies of the company in force, each loan being less than the net value of the policy on which the loan is made; *Provided always*, That the current market value of such pledged securities other than the bonds and stocks of this State or of the United States, shall be at all times, during the continuance of such loans, at least ten per cent. more than the sum loaned on them, and all such loans are subject to the power of the company to terminate the same in case of depreciation of the securities below that limit; *And provided*, In all investments made upon mortgaged securities, the evidence of the debt shall accompany the mortgage or deed of trust. (*Ibid*, § 34, as amended by laws of 1872, p. 694.)

**26.** Whenever the Attorney-General of the State, or State's Attorney for the City of Baltimore or for any county in this State, shall be authorized by the Comptroller to institute proceedings against any insurance company, incorporated under the laws of this State, to ascertain whether such corporation has been guilty of such misuse, abuse, or non-user of its corporate powers and franchises, as, by law, would authorize and make proper the forfeiture of its charter, corporate powers, and franchises, the Attorney-General or State's Attorney, so authorized, shall file in the superior court of Baltimore city, or the circuit court of the county, as the case may be, a petition in the name of the State, setting forth fully and in detail the alleged abuse, misuse, or non-user, by reason whereof the forfeiture is sought, and upon the filing of such petition the court, in which it is filed, or any judge thereof, shall lay a rule requiring the said company or corporation to show cause within such time as the said judge may deem proper, why a decree of forfeiture should not be passed as prayed in said petition; a copy of which rule and the petition shall be served on the president, manager, secretary, or some other officer of the said company or corporation, by a day to be therein limited (not exceeding twenty days), as other process against such corporations or companies is directed to be served; and further proceedings shall be had in said cause, in conformity with the act passed at January session, 1868, chapter 471. (*Ibid*, § 35, as amended by laws of 1872, p. 695.)

**27.** Any person or persons, or any company or association violating any of the provisions of this act, shall be subject to a fine of not less than one hundred dollars, nor more than one thousand dollars, which fines shall be sued for in the name of the State of Maryland, and collected as all other fines as are imposed by the laws of this State are now collectable, and any act or part of an act inconsistent with the provisions of this act, be and the same are hereby repealed; *Provided*, That no right of action accrued, or penalty incurred under any existing law repealed by this act, shall be

thereby waived or annulled in any way, but the same may be enforced under said acts in the same way as if the repealing clause had not been passed; *And, provided further*, That when by the laws of any other State any taxes, fines, penalties, deposits of money, or securities, or other obligations, or prohibitions are imposed upon insurance companies incorporated or organized under the laws of this State and transacting business in such other State, or upon the agents of such insurance companies, not imposed by the laws of this State, so long as such laws continue in force, the same taxes, fines, penalties, deposits, and obligations shall be imposed upon all insurance companies doing business in this State which are incorporated or organized under the laws of such other State, and upon their agent or agents. (*Ibid*, § 36, as amended by laws of 1872, p. 690.)

**28.** Any person applying for the same, and paying the sum of one hundred dollars, may obtain a license for carrying on the business of insurance broker, and any individual, co-partnership, or firm who shall carry on the business of an insurance broker, without a license, shall be subject to the penalties imposed upon other brokers, by section seventeen of this article. (*Supplement to Code*, 1868, p. 133, § 11.)

#### LIFE INSURANCE FOR MARRIED WOMEN.

**29.** Any married woman, by herself and in her name, or in the name of any other person, with his assent, as her trustee, may insure in any life insurance company formed under the provisions of this article, for her sole use, the life of her husband for any definite period or for the term of his natural life; and in case she shall survive her husband, the sum or net amount of the insurance becoming due and payable by the terms of the insurance shall be payable to her and for her own use, free from the claims of the representatives of her husband or any of his creditors; and in case of the death of the wife before the decease of her husband, the amount of the insurance may be made payable after death to her children for their use, and to their guardian if under age. (*Supplement to Code*, 1868, p. 60, § 101.)

**30.** Any corporation formed under this article may insure the property, personal, or mixed, which any married woman may own jointly or in severalty, in the same manner as if she were a *femme sole*, and any guardian may, with the assent of the Orphan's Court, by which he shall have been appointed, insure in any company formed under this article, any property which the ward or wards of such guardian may own, either jointly or in severalty, and such insurance shall have the same effect in all respects as if the minor whose property is thus insured were of full age and had made such insurance himself. (*Ibid*, p. 61, § 104.)

#### ARSON AND INCENDIARISM.

**31.** Every person convicted of the crime of arson, or as being accessory thereto, shall, at the discretion of the Court, suffer death, or be sentenced to the penitentiary for not less than five nor more than twenty years. (*Code*, 1860, p. 205, § 2.)

**32.** If any person shall maliciously set fire to and burn any



untenanted dwelling-house, he shall, on conviction thereof, be confined in the penitentiary for a term not less than two years nor more than ten years. (*Ibid*, p. 206, § 3.)

**33.** Every person, his aiders and abettors, who shall be convicted of the crime of willfully and maliciously burning any ship or other vessel of seventeen feet keel or upwards, whether laden or empty, shall be sentenced to the penitentiary for not less than two nor more than twelve years. (*Ibid*, § 4.)

**34.** If any person shall willfully burn, or attempt or conspire to burn, any court-house, or county or public prison, or the penitentiary, poor-house, magazine or lazaretto, or public warehouse, or any other building belonging to this State, or the different counties, cities, or towns, or bodies corporate in this State, or the office of the clerk or register of any court in this State, or the State-house of this State, or any public office contained therein, or any public office in this State of any kind whatever, or church or house of worship, college, academy, or school-house, engine-house, market-house, scale-house, watch-house, or public barrack, such person and his aiders, abettors, and counselors, and each of them, shall be deemed felons, and, on being convicted thereof, shall suffer death, or be sentenced to the penitentiary for not more than fifteen years. (*Ibid*, § 5.)

**35.** Every person convicted of the crime of willfully and maliciously burning or destroying, or attempting or conspiring to burn or destroy, any public arsenal or magazine of provisions, or of military or naval stores, belonging to this State, or subject to the jurisdiction of this State, or of willfully and maliciously burning or destroying, or attempting or conspiring to burn or destroy, any military or naval stores, ship, or vessel, belonging to this State, the United States, or any one of them, shall suffer death by hanging, or be sentenced to the penitentiary for a period not less than three nor more than ten years. (*Ibid*, § 6.)

**36.** If any person shall maliciously set on fire any fence or fencing, or any straw, stack or stacks, or ricks of straw, or any hay or mowed grass, or other grass, or any tobacco, he shall, on conviction thereof, be sentenced to the penitentiary for not less than two nor more than four years. (*Ibid*, § 7.)

**37.** Every person, his aiders, abettors, or counselors, who shall be convicted of the crime of willfully burning any mill, distillery, manufactory, barn, meat-house, tobacco-house, stable, warehouse, or other out-house, not parcel of any dwelling-house, being empty or having therein any tobacco, wheat, rye, oats, Indian corn, barley, flax, hemp, hay, or other country produce, horse, or horses, cattle or goods, wares and merchandise, or of burning any stack, rick, mow, or barrack, of hay, fodder, flax, hemp, tan bark, wheat, or other grain, shall, at the discretion of the court, suffer death, or be sentenced to the penitentiary for not less than three nor more than twelve years. (*Ibid*, p. 207, § 8.)

**38.** Any person who shall maliciously and willfully attempt to burn any dwelling-house, whether inhabited or not, or any mill, factory, barn, stable, store-house, or other out-house, or any stack of grain, hay, straw or fodder, upon conviction thereof, shall be sentenced to the penitentiary for not less than eighteen months nor more than ten years. (*Ibid*, § 9.)

## EMBEZZLEMENT.

**39.** If any cashier, servant, agent or clerk, or any person employed for the purpose or in the capacity of cashier, servant, agent, or clerk, to any person or to any body corporate, shall, by virtue of such employment, receive or take into his possession any money, goods, bill, note, bond, check, evidence of debt, or other, valuable security or effects, for and in the name or on account of his employer, and shall fraudulently embezzle, secrete, or make way with the same, or any part thereof, he shall be deemed guilty of having feloniously stolen the same from his employer, for whose use or in whose name or on whose account the same was or were delivered to or taken into the possession of such cashier, servant, clerk, or other person employed, although such money, goods, bill, bond, note, check, evidence of debt, or other valuable security or effects, was or were not otherwise received into the possession of such employer than by the actual possession of his cashier, servant, or clerk, or other person so employed, and every such offender, his adviser, aider, procurer, or abettor shall, on conviction thereof, be sentenced to the penitentiary for not less than five nor more than fifteen years. (*Code 1860, p. 217, § 49.*)

**40.** For General Provisions relating to Corporations, see Supplement to Code, 1868, pp. 33-53, 84-97.

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# INSURANCE STATUTES OF MASSACHUSETTS.

## INSURANCE COMMISSIONER.

1. The Governor, by and with the advice and consent of the Council, shall appoint some suitable person to be Insurance Commissioner, who shall, unless sooner removed by the Governor, hold his office for the term of three years from the date of his commission and until his successor is appointed and qualified. (*G. S.* 58, § 1; 1866, 255, § 1.)

2. The Commissioner shall receive an annual salary of two thousand dollars. There shall be allowed and paid out of the fees received from life insurance companies as compensation for the valuation of policies on lives, all the expenses incurred for actuarial and clerical assistance employed in making such valuation, and all the incidental and contingent expenses connected therewith. One-fifth of the amount received, if so much then remains unexpended, shall be allowed and paid for the actuarial services of the Commissioner; *Provided*, That the amount so allowed and paid in any one year shall not exceed the sum of three thousand dollars. (*Ibid*, § 11; *Laws of* 1860, 178; 1862, 212, §§ 1, 2; 1862, 86; 1866, 255, § 2; 1867, 267, § 8; 1869, 484, § 2.)

3. For each certificate of the valuation of the outstanding policies of any insurance company doing business in this commonwealth, there shall be paid the sum of two dollars, to be collected by the Insurance Commissioner and paid into the treasury. (*Laws of* 1870, 349, § 8.)

4. The Commissioner may appoint a clerk, who shall receive an annual salary of two thousand dollars. The salaries of the Commissioner and of his clerk shall be paid monthly out of the treasury of the commonwealth. (*Laws of* 1866, 255, § 2; 1877, 167, § 3; 1867, 263, § 1; 1869, 434, § 1.)

5. The Commissioner shall visit and examine any insurance company incorporated in this State, when requested in writing by five or more persons, each of whom is a stockholder or creditor, or pecuniarily interested in such company; and also whenever he deems an examination necessary. At such times he shall have free access to its books and papers, and shall thoroughly inspect and examine all its affairs, and make inquiries such as are necessary to ascertain its condition and ability to fulfill its engagements, and whether it has complied with all the provisions of law applicable to its transactions. (*G. S.*, 58, § 2.)

6. He may at any time require the agents of any insurance company not incorporated by the legislature of this commonwealth to exhibit the books kept by them relating to such agencies, and to make answer in writing and under oath to all reasonable questions proposed by him, in order to elicit a full statement of the business done for the company represented by such agent. Any agent refusing or neglecting for thirty days to answer such interrogatories

shall be deemed not to have complied with the provisions of the laws of this State; and if he continues to act as such agent, he shall be liable to a fine not exceeding one thousand dollars for each offense. (*Ibid*, §§ 3, 74.)

7. He may summon and examine under oath, which he may administer, the directors, officers, and agents of any insurance company, and such other person as he thinks proper, in relation to the affairs, transactions, and condition of such company. Whoever, without justifiable cause, refuses to appear and testify when so required, or obstructs the Commissioner in the discharge of his duty, shall for each offense be punished by a fine not exceeding one thousand dollars, or by imprisonment not exceeding one year. (*Ibid*, § 5.)

8. When in his opinion an insurance company, its officers, or agents, have violated any law of the State relative to such company, he shall forthwith report the facts, with such statements and remarks as he deems expedient, to the Attorney-General, who shall at once prosecute said company, officer, or agent therefor. (*Ibid*, § 8, as amended by laws of 1871, chap. 297, § 9.)

9. He shall annually in September furnish to the insurance companies in this State, and to the agents known to him of insurance companies not incorporated in this State and doing business therein, two or more printed copies of the forms of returns to be made by them. (*Ibid*, § 7.)

10. Upon some day in each year, designated by him, he shall calculate the existing value of all outstanding policies of life insurance in companies authorized to make insurance on lives in this State. (*Ibid*, § 4.)

11. Whenever, in determining the liabilities of an insurance company, it becomes necessary for the Insurance Commissioner to ascertain the amount necessary to reinsure all outstanding risks, he shall compute the same by taking fifty per cent. of the premium received upon outstanding fire and inland risks, and the full amount received upon marine risks not marked off. (*Laws of 1874*, 108, § 1.)

12. He shall keep and preserve in a permanent form a full record of his proceedings, including a concise statement of the condition of each company visited or examined by him. (*General Statutes*, 58, § 9.)

13. He shall annually, at the earliest practicable date after the returns are received from the several insurance companies, make a report to the legislature of the general conduct and condition of the corporations visited by him since his last annual report, with such suggestions as he deems expedient, and shall include therein an aggregate of the calculated values of all outstanding policies of life insurance; and in connection therewith shall prepare an abstract of all the returns and statements made to him by insurance companies and agents. Such report shall be printed on or before the first Wednesday of January. (*Ibid*, § 10.)

14. The Commissioner shall visit and examine every loan fund association incorporated in this State, whenever requested in writing by five or more persons, each of whom is a stockholder or creditor, or pecuniarily interested in said association, and also whenever he deems it necessary; at which times he shall have free access to its books and papers, and shall thoroughly inspect and examine all its affairs, and make all inquiries necessary to ascertain its condition, its ability to fulfill all its engagements, and whether it has



complied with all provisions of law applicable to its transactions. Upon such examinations the Commissioner shall have the powers and perform the duties which he has and performs in the examination of insurance companies. (*Ibid*, 59, § 10.)

**15.** The Commissioner shall annually, on or before the first Wednesday of January, submit to the legislature a report in print of the general conduct and condition of the several loan fund corporations, with such suggestions as he deems expedient; and if in his opinion any such corporation has violated any law relative to such associations, he shall forthwith present the facts to the Attorney-General, who may prosecute the association or its officers, as the case may be, for such violation. (*Ibid*, § 11.)

**16.** The Commissioner shall report annually to the legislature all the receipts and expenditures of his department, and shall give bond, with sufficient sureties to be approved by the Treasurer, in the sum of ten thousand dollars for the faithful discharge of all the duties of his office. (*Laws of 1867*, 267, § 9.)

**17.** It shall be the duty of the Insurance Commissioner, by himself or his deputy, at least once in three years, and whenever he deems it necessary for the protection of policy-holders, to visit each insurance company incorporated in this commonwealth, and thoroughly examine its financial condition and ability to fulfill its obligations, and ascertain whether it has complied with all the provisions of law applicable to the company and its transactions. (*Laws of 1871*, 297, § 1.)

**18.** He shall in like manner, whenever he deems it necessary for the protection of policy-holders in this commonwealth, visit and examine, as aforesaid, any insurance company not incorporated in this State and doing business by agencies therein. He may employ such assistants as are necessary in making the examination; and all the expenses of an examination without the commonwealth shall be borne by the company examined. (*Ibid*, § 2.)

**19.** For the purposes aforesaid, the Commissioner or his deputy shall have free access to all the books and papers of any insurance company doing business in this commonwealth, and may examine under oath its officers or agents relative to its business and condition. If any company not incorporated in this State, its officers or agents, refuse to submit to such examination or to comply with any provisions of this act in relation thereto, the authority of such company to do business in this commonwealth shall cease. (*Ibid*, § 3.)

**20.** Whenever he deems it expedient, the Commissioner shall publish in the newspaper in which the general laws are published the result of any examination made as aforesaid. If it appears to the Commissioner upon such examination that any company not incorporated in this State is in an unsound condition, or if the company refuses to submit to an examination as aforesaid, he shall revoke all certificates of authority granted in behalf of such company or its agents, and shall cause notice thereof to be published in the newspaper aforesaid, and all new business thereafter done by the company or its agents in this commonwealth shall be deemed to be done in violation of law. (*Ibid*, § 4.)

**21.** No insurance company or association incorporated or formed in this commonwealth shall issue policies until, upon examination by the Insurance Commissioner or his deputy, it is found to have complied with the laws thereof; nor until a certificate is ob-

tained from said Commissioner setting forth such fact and authorizing such company to issue policies. Every such company or association shall pay into the treasury of the commonwealth, for the examination required by this section, the sum of thirty dollars. (*Ibid*, § 5.)

**22.** For such additional assistance as the Insurance Commissioner may find necessary in the discharge of the duties imposed by this act and by existing laws, he may appoint, with the approval of the Governor and council, and subject to removal with their consent, a deputy commissioner, who shall receive an annual salary of three thousand dollars; and he may also employ such additional clerical assistance as he may find necessary for the proper discharge of the duties of his department. (*Ibid*, § 6; *Laws of 1872*, 374, § 1.)

## INSURANCE CORPORATIONS CHARTERED BY THE COMMONWEALTH.

### APPLICATIONS FOR ACTS OF INCORPORATION, OR FOR ALTERA- TION OR EXTENSION OF CHARTERS.

**23.** Persons intending to apply to the legislature for an act of incorporation, and corporations intending to apply for an alteration or extension of their charters, shall give notice of such intended application by an advertisement, at least four weeks immediately preceding the session at which the application is to be made, in some newspaper printed in the county where such corporations are, or are intended to be, established; such newspaper shall be designated by the petitions and approved by the Secretary of the commonwealth. (*General Statutes*, 2, § 10.)

**24.** The notice of an application for an act of incorporation shall specify the amount of capital stock required; and if the notice is for an alteration or extension of any charter already granted, it shall specifically state the same. (*Ibid*, § 11.)

**25.** Proof of the publication of the notice required in the preceding sections, may be made by the affidavit of the printer or publisher of the newspaper in which such publication is made; which affidavit and the petition to which it relates shall be presented to the general court within the first ten days of the session. The form of proof of publication of notice herein authorized shall not be construed to exclude any other equally satisfactory evidence thereof. (*Ibid*, § 12; *Laws of 1862*, 91, § 3.)

**26.** Whenever it appears upon satisfactory evidence under oath, that the notice required to be given by the fifteenth section was omitted to be given by reason of any unavoidable accident, without default on the part of the petitioner or applicant, or that the subject-matter of the petition or application did not admit of such previous notice, the notice shall be accounted sufficient, if given for the period of time therein named as soon as such omission was discovered by the petitioner or applicant, or within a reasonable time after such subject-matter arose or became known; *Provided*, Such petition or application is presented within thirty days after the first day of the assembling of the legislature. (*Ibid*, § 1.)

**27.** Whenever any petition is presented within the period of thirty days after the assembling of the legislature, and it appears upon satisfactory proof that all the parties having rights or interests

in the subject-matter thereof have waived notice, or have received satisfactory notice thereof, by writing signed by them, no other or further proof of notice shall be required. (*Ibid*, § 2.)

POWERS, DUTIES, AND LIABILITIES OF INSURANCE COMPANIES.

**28.** Insurance companies incorporated in this State may exercise the powers and shall be subject to the duties and liabilities herein provided, so far as consistent with their respective charters. (*General Statutes*, 58, § 12.)

**29.** Every such company shall give notice in writing to the Secretary of the commonwealth, of the acceptance of its charter and organization under the same, within one year from the date thereof, or the same shall be void. (*Ibid*, § 14.)

**30.** The first meeting of such companies hereafter organized shall be called by a notice signed by one or more of the persons named in the act of incorporation, setting forth the time, place and purposes of the meeting, which shall be delivered to each member seven days at least before the meeting, or published in some newspaper of the county in which the company is established, or if there is no such paper, in some newspaper of an adjoining county. (*Ibid*, § 13.)

**31.** All matters proposed to be acted upon at any meeting of such companies shall be specified in the call for the same. (*Ibid*, § 15.)

**32.** When by reason of the death, absence or other legal impediment, of the officers of any such company, there is no person duly authorized to call or preside at a legal meeting, any justice of the peace in the county where the corporation is established may, on a written application of three or more of the members, issue a warrant to either of them, directing him to call a meeting by giving such notice as was previously required by law; and the justice may in the same warrant direct such person to preside at the meeting until a clerk is duly chosen and qualified, if no officer is present legally authorized to preside. (*Ibid*, 68, § 5.)

**33.** The corporation, when so assembled, may elect officers to fill all vacancies, and act upon such other business as may by law be transacted at a regular meeting. (*Ibid*, § 6.)

**34.** All such companies, where no other provision is specially made, may in their corporate name sue and be sued, appear, prosecute, and defend to final judgment and execution; have a common seal, which they may alter at pleasure; and elect, in such manner as they determine, all necessary officers, fix their compensation, and define their duties and obligations. (*Ibid*, § 1.)

**35.** Such companies may adopt by-laws for conducting their business, not repugnant to their respective charters or the laws of the State, but no such company shall, by any condition, restriction or stipulation, in its by-laws or policies, designate the county in which any suit shall be brought against the company, or limit the term of commencing such suit to a less period than two years from the time when the right thereto accrues. (*Ibid*, 58, § 16.)

**36.** Such companies may by their by-laws, where no other provision is specially made, determine the manner of calling and conducting their meetings; the number of members that shall constitute a quorum; the mode of voting by proxy; the mode of selling shares for the non-payment of assessments; and the tenure of office for the several officers. They may annex suitable penalties to such

by-laws, not exceeding the sum of twenty dollars for one offense; but no by-law shall be made by a corporation repugnant to its charter or the laws of the State. (*Ibid*, 68, § 7, *Laws of 1865*, 236.)

**37.** Any such company may, by its by-laws, provide for the election annually of a vice-president, who shall be sworn to the faithful performance of his duties before entering upon the discharge thereof. Policies, checks, and other instruments, signed by the vice-president, shall have the same force and effect as if signed by the president or two directors. The vice-president shall perform such other duties as are prescribed by the by-laws or directors. (*Laws of 1864*, 113, §§ 1, 2.)

**38.** The secretary and treasurer of such companies shall give bond in such sum as is required by the directors, for the faithful discharge of their respective duties. (*General Statutes*, 58, § 17.)

**39.** The directors of such companies shall, when required, furnish to the legislature, or to a committee thereof, or to the Insurance Commissioner, a statement of their affairs, signed by the president and secretary, and sworn by them to be correct according to their best knowledge and belief, and shall submit to an examination on oath concerning the same. (*Ibid*, § 19.)

**40.** Investments of the funds of an insurance company shall be made in its corporate name; and funds of such companies as classify their risks shall be kept and invested separately, so as to designate the assets belonging to each class. (*Ibid*, § 20.)

**41.** No member of a committee or officer of a mutual marine, mutual fire, or mutual life insurance company, charged with the duty of investing its funds, shall borrow the same, or be surety for such loans to others, or directly or indirectly be liable for money borrowed of the company. (*Ibid*, § 21.)

**42.** The Treasurer of the commonwealth in his official capacity shall take and hold on deposit the securities of any insurance company incorporated under the laws of this State, which are deposited by any such company for the purpose of complying with the laws of any other State in order to enable such company to commence business in such State. The company depositing such securities shall have the right to receive the income thereof, and at any time to exchange the same according to the laws of the States in which they are doing business. (*Ibid*, § 63.)

**43.** Every such company may convey lands to which it has a legal title. (*Ibid*, 68, § 8.)

**44.** Mortgages on real estate, held by an insurance company, shall be liable to be attached and taken and sold on execution, in the manner provided in sections seventy-five, seventy-six, and seventy-seven, of chapter fifty-seven of the General Statutes, in respect to mortgages held by banks. The secretary shall perform the duties therein required of cashiers and clerks. (*Ibid*, 58, § 22.)

**45.** Such companies shall have their office in the city or town specified in their charter; and when they establish agencies in other cities or towns, all signs, cards, pamphlets and advertisements exhibited or issued by them shall specify the city or town where the company they represent is located. (*Ibid*, § 18.)

**46.** No insurance company incorporated in this commonwealth shall issue any policy for a period extending beyond the time for which it was incorporated, unless its act of incorporation has been renewed, extended or continued, and then not exceeding the time of such renewal, extension or continuance. Any president, vice-



president, director, secretary or other officer or agent of any insurance company, who issues or assents to the issuing of any policy contrary to the provisions of this section, shall, upon conviction thereof, be punished by a fine not exceeding five hundred dollars, and shall be liable in an action of tort to the holder of any such policy, for any damage he suffers or sustains by reason of the issuing of the same. (*Laws of 1864*, 277, §§ 1, 2.)

47. When the officers, stockholders, or members of an insurance company, or any of them, are liable for any of its debts, or for their acts or omissions respecting its business, or when some of them are liable to contribute for money paid by others on account of such debts, acts, or omissions, the party entitled may, instead of any remedy otherwise provided, maintain a suit in equity in the supreme judicial court. (*Ibid*, § 17.)

48. Each insurance company in this State shall, once in every five years, publish in some newspaper in the city of Boston, and also in some newspaper, if there is any, in the county where the corporation is established, a list of all dividends and balances which have remained unclaimed for two years or more, with the names of the persons to whose credit the dividends or balances stand; which publication shall be continued in three successive papers. (*Ibid*, § 19.)

49. Nothing contained in the fifty-ninth chapter of the General Statutes, relating to limited partnerships, shall authorize such partnerships to be formed for the purpose of banking or insurance. (*Ibid*, 55, § 1.)

#### TAXATION OF INSURANCE COMPANIES.

50. Insurance companies incorporated in this State shall be liable to be taxed by any general law taxing insurance companies. (*Ibid*, 58, § 19.)

51. The Massachusetts Hospital Life Insurance Company shall pay to the Treasurer of the Commonwealth upon all moneys and property in the possession or charge of said company as deposits, trust funds, or for purposes of investment, at the time for which the return of said company, required by the following section, is made, the same rate of tax\* as is imposed upon or paid by savings banks or institutions for savings on account of deposits. All property taxed under this section shall be otherwise exempt from taxation for the current year in which the tax is paid. (*Laws of 1862*, 224, §§ 3, 4, 12; 1865, 283, § 18.)

52. The Massachusetts Hospital Life Insurance Company shall semi-annually, on or before the second Mondays of May and November, make a return to the Treasurer of the commonwealth, which shall be signed and sworn to by a majority of its board of directors, and shall include the full amount of all moneys and property, in detail, in the possession or charge of said company as deposits, trust funds, or for purpose of investment, on the first day of May or November, in which said return is required. (*Ibid*, §§ 7, 9.)

53. The taxes hereinbefore provided for, shall be paid semi-annually within ten days after the first Mondays of June and

\* Under existing laws, one-half of one per cent. per annum, payable, one-half of said tax semi-annually.

December, each payment to be an assessment, by the Treasurer, of one-half the annual percentage. (*Ibid*, § 5.)

**54.** Every corporation neglecting to make return as hereinbefore required, shall forfeit fifty dollars for each day of such neglect; and any corporation that willfully makes false statements in any such return shall be liable to pay a fine of not less than five hundred nor more than five thousand dollars. (*Ibid*, § 9; see **227**.)

#### TAX ON CORPORATE SHARES OR FRANCHISE.

**55.** Every insurance company chartered by this commonwealth, and having a capital stock divided into shares, shall annually, between the first and the tenth day of May, return to the Tax Commissioner,\* under the oath of its Treasurer, a complete list of its shareholders, with their places of residence, the number of shares belonging to each on the first day of May, the amount of the capital stock of the corporation, its place of business, the par value and the market value of the shares on said first day of May. Such return shall, in the case of stock held as collateral security, state not only the name of the person holding the same, but also the name of the pledgor and his residence. The return shall also contain a statement in detail of the real estate owned by such company, and subject to local taxation within the commonwealth, and the location and value thereof. The company shall also return the amount, value, and location of all real estate owned by it, and subject to local taxation without the commonwealth. (*Laws of 1865*, 283, § 3.)

**56.** The Tax Commissioner shall ascertain, from the returns or otherwise, the true market value of the shares of each such company, and shall estimate therefrom the fair cash valuation of all of said shares constituting the capital stock of such company on the first day of May next preceding, which shall be taken as the true value of its corporate franchise for the purposes of taxation. He shall also ascertain and determine the value and amount of all real estate owned by each such company, and subject to local taxation, and to the deduction hereinafter provided; and for this purpose he may take the amount or value at which such real estate is assessed at the place where the same is located as the true amount or value; but such local assessment shall not be conclusive of the true amount or value thereof. (*Ibid*, § 4.)

**57.** Every such company shall annually pay a tax upon its corporate franchise at a valuation thereof equal to the aggregate value of the shares in its capital stock, as determined in the preceding section, after making the deduction provided for in this section, at a rate determined by an apportionment of the whole amount of money to be raised by taxation upon property in the commonwealth during the same current year, upon the aggregate valuation of all the cities and towns in the commonwealth for the preceding year; *Provided*, That the amount of tax assessed upon polls the preceding year may be taken as the amount of poll-tax to be deducted from the whole amount to be raised by taxation, for the purpose of ascertaining the amount to be raised by taxation upon property. From the valuation, ascertained and determined as aforesaid, there shall be deducted an amount equal to the value, as determined by the

\* The Treasurer of the commonwealth is *ex officio* Tax Commissioner.

Tax Commissioner, of the real estate of such company subject to local taxation, wherever situated. (*Ibid*, § 5.)

**58.** In case the value of the real estate located within the commonwealth, of any such company as determined by the Tax Commissioner, is less than the value as determined by the assessors of the city or town where such real estate or machinery is taxable, said Commissioner shall notify the company of such determination, and if said company does not, within one month from the date of such notice, make application to said assessors for an abatement, and does not, in case of the refusal of said assessors to grant an abatement, forthwith prosecute an appeal in accordance with the provisions of chapter eleven of the General Statutes, and give notice thereof to the Tax Commissioner, such determination shall be conclusive upon said company. The Tax Commissioner may appear before the County Commissioners and be heard upon an appeal made to them, and the decision of the County Commissioners shall be conclusive as to the value. (*Ibid*, § 6.)

**59.** The Tax Commissioner shall, as soon as may be after the first Monday in August, notify the Treasurer of each such company of the amount of its tax, ascertained as aforesaid, to become due and payable to the Treasurer of the commonwealth within thirty days from the date of such notice; *Provided*, That it shall not be due and payable earlier than the first day of November. Such notice shall also state that within ten days after the date thereof, the company may apply for a correction of said tax, and be heard thereon before the Board of Appeal hereinafter established. (*Ibid*, § 11.)

**60.** The Treasurer and Auditor, together with one member of the Council to be named by the Governor, shall constitute a Board of Appeal, to which Board any party aggrieved by the decision of the Tax Commissioner upon any matter arising under the five preceding sections, may apply within ten days after notice of such decision. Upon such appeal said Board shall, as soon as may be, give a hearing to such party, and shall thereupon decide the matter in question, which decision shall be final. (*Ibid*, § 13.)

**61.** Every such company shall, when required, submit its books to the inspection of the Tax Commissioner, and its treasurer and directors to examination on oath in regard to all matters affecting the determinations which are to be made by said Commissioner. (*Ibid*, § 17.)

**62.** Any such company neglecting to make return according to the provisions of section forty-nine, or refusing or neglecting, when required thereto, to submit to the examinations provided for in the preceding section, shall forfeit two per cent. upon the par value of its capital stock; which penalty may be recovered by an action of tort, brought in the name of the commonwealth, either in the county of Suffolk or in the county where the company is located. Any company failing to make said return shall also be liable, on application of the Tax Commissioner therefor to any of the justices of the supreme judicial court, to injunction restraining said corporation and the agents thereof from the further prosecution of its business until such return is made. If any such company fails to pay the tax required by section fifty-one, the Treasurer of the commonwealth may forthwith commence an action of contract in his own name, as Treasurer, for the recovery of the same, with interest. Said penalty may also be enforced, and said tax may also be col-

lected by information brought in the supreme judicial court at the relation of the Treasurer of the commonwealth, and upon such information the court may issue an injunction restraining the further prosecution of the business of the company named therein, until all taxes due or penalties incurred as aforesaid are paid, with interest and costs.\* (*Ibid*, § 14; 1866, 291, § 1.)

**63.** No taxes shall be assessed in any city or town for State, county or town purposes, upon the shares in the capital stock of such companies, for any year for which they pay the tax herein imposed; but nothing contained herein shall be construed to exempt the owners of shares in the capital stock of any such company from liability to taxation for school district and parish purposes. (*Ibid*, § 15; 1866, 196, § 1.)

**64.** The tax herein imposed upon any such company, shall not affect nor prevent the imposition and collection of any other tax now authorized, or that may hereafter be authorized, upon any especial privilege, franchise or business, enjoyed or exercised by such company. (*Ibid*, § 18.)

[For other provisions in detail regarding the taxation of the corporate shares or franchise of insurance companies in common with other joint-stock corporations, see chapter 383 of the acts of 1865, and chapter 52 of the acts of 1867.]

#### ANNUAL STATEMENTS.

**65.** Every insurance company incorporated in this State shall, on or before the fifteenth day of January in each year, transmit to the Insurance Commissioner, and file in his office, a statement of its business, standing and affairs, in the form prescribed or authorized by law, and adapted to the business done by such company, signed and sworn to by the president and secretary, and made out for the year ending on the preceding thirty-first day of December. (*General Statutes* 57, § 25; *Laws of* 1867, 267 § 2, 3.)

#### INSOLVENT AND FRAUDULENT INSURANCE COMPANIES.

**66.** If upon examination the Commissioner is of opinion that a company is insolvent, or that its condition is such as to render its further proceedings hazardous to the public or to those holding its policies, he shall apply to a justice of the supreme judicial court to issue an injunction restraining such company, in whole or in part, from further proceeding with its business until after a full hearing can be had. It shall be discretionary with such justice either to issue said injunction forthwith, or to give previous notice to the company, and to cause a hearing to be had on complaint and answer or otherwise, as in ordinary proceedings in equity, before determining whether an injunction shall be issued. If issued forthwith, without such previous notice and hearing, he may, after a full hearing of all parties interested, dissolve or modify the same or make it perpetual. He may make such orders and decrees as may be needful to suspend, restrain, or prohibit the further continuance of the busi-

\* Chapter 52 of the acts of 1867 also authorizes the Treasurer to issue a warrant for the collection of such taxes, and limits the remedy of the company for the exaction of an alleged illegal tax to petition to the supreme judicial court.



ness of the company; and may appoint agents or receivers to take possession of the property and effects of the company, subject to such rules and orders as are from time to time, according to the course of proceedings in equity, prescribed by the court or a justice thereof in vacation. (*Ibid*, 58, § 6; 1862, 13)

[For proceedings by and against insolvent companies in the courts of insolvency, see General Statutes, chap. 118, §§ 113-124.]

**67.** Whenever upon examination the Commissioner is of opinion that any insurance company incorporated under the laws of this commonwealth has exceeded its powers, or failed to comply with any of the rules, restrictions, or conditions provided by law, he may apply to a justice of the supreme judicial court to issue an injunction restraining such company in whole or in part from further proceeding with its business until after a full hearing can be had; and the provisions of the preceding section are hereby extended to proceedings under this section. (*Laws of 1862, 145, § 1.*)

#### DISSOLUTION OF INSURANCE COMPANIES.

**68.** When a majority in number or interest of the members of an insurance company incorporated in this State desire to close its concerns, they may apply by petition to the supreme judicial court, setting forth in substance the grounds of their application, and the court, after due notice to all parties interested, may proceed to hear the matter, and for reasonable cause decree a dissolution of the corporation. Corporations so dissolved shall be deemed and held extinct in all respects as if their charters had expired by their own limitation. (*General Statutes, 68, § 35.*)

**69.** The charters of all fire insurance companies, which, either by the vote of their members, the neglect of their officers, or in obedience to injunctions from the supreme judicial court, have ceased, or hereafter cease, for the period of one year, to transact the business for which they were established, shall become extinct in all respects as if they had expired by their own limitation. The supreme judicial court shall have authority, upon the application of the Insurance Commissioner, or any person interested, to fix, by decree, the time within which such companies shall settle and close their concerns. (*Laws of 1863, 249, §§ 1, 2.*)

**70.** Insurance companies whose charters expire by their own limitation, or are annulled by forfeiture or otherwise, shall nevertheless continue bodies corporate for the term of three years after the time when they would have been so dissolved, for the purpose of prosecuting and defending suits by or against them, and of enabling them gradually to settle and close their concerns, to dispose of and convey their property, and to divide their capital stock; but not for the purpose of continuing the business for which they were established. (*General Statutes, 68, § 36.*)

**71.** When the charter of an insurance company expires or is annulled, or the corporation is dissolved as provided in section sixty-two, the supreme judicial court on application of a creditor, stockholder, or member, at any time within said three years, may appoint one or more persons to be receivers or trustees to take charge of its estate and effects, and collect the debts and property due and belonging to it, with power to prosecute and defend suits in the name of the corporation or otherwise, to appoint agents

under them, and do all other acts, which might be done by such corporation if in being, that are necessary for the final settlement of the unfinished business of the corporation. The powers of such receivers may be continued as long as the court deem necessary for said purposes. (*Ibid*, § 37.)

72. The court shall have jurisdiction in equity of the application and of all questions arising in the proceedings thereon; and may make such orders, injunctions, and decrees therein as justice and equity require. (*Ibid*, § 38.)

73. The receivers shall pay all debts due from the company, if the funds in their hands are sufficient therefor, and if not, they shall distribute the same ratably among the creditors who prove their debts in the manner directed by any order or decree of the court for that purpose. If there is a balance remaining after the payment of the debts, the receivers shall distribute and pay it to and among those who are justly entitled thereto as having been stockholders or members of the company, or their legal representatives. (*Ibid*, § 39.)

74. All accounts rendered by receivers of insurance companies appointed as aforesaid to the supreme judicial court, shall be referred to the Insurance Commissioner, who shall carefully examine the same and report thereon to the court, and the court may make all such orders and decrees in the premises as to law and justice appertain. (*Laws of 1864*, 308, § 3.)

75. Whenever in the opinion of the Commissioner, further efforts to collect an assessment will not afford substantial relief to creditors, he shall certify the fact to the supreme judicial court, which after public notice and hearing of the parties interested, may order the receivers to make a final report. (*Ibid*, § 2.)

76. Receivers of insurance companies shall report to the Insurance Commissioner annually, in such form as the Commissioner prescribes, on or before the fifteenth day of November, and as much oftener as he directs. Such reports, or abstracts therefrom, shall be incorporated into the annual report of the Commissioner to the legislature. (*Ibid*, § 1.)

77. The compensation of receivers of insolvent insurance companies shall be fixed by the supreme judicial court. (*Ibid*, 1872, 362, § 1.)

#### AMENDMENT OR REPEAL OF CHARTERS.

78. Every act of incorporation passed after the eleventh day of March in the year one thousand eight hundred and thirty-one, shall be subject to amendment, alteration or repeal, at the pleasure of the legislature; but the corporation, notwithstanding such repeal, shall be subject to the provisions of sections sixty-four and sixty-five; and such amendment, alteration or repeal shall not take away or impair any other remedy which may exist by law consistently with those sections against the corporation, its members or officers, for any liability previously incurred. (*General Statutes*, 68, § 41.)

79. Insurance companies created by the laws of this commonwealth, whose charters were granted or have been extended for a term of years or subject to a limitation of time, shall continue to be bodies corporate, for the purposes specified in their several acts of incorporation and in any acts in addition to or in amendment

thereof, from and after the expiration of their respective charters, with the powers and privileges and subject to the duties, liabilities, and restrictions set forth in the general laws which are or may be in force and applicable to such insurance companies. (*Laws of 1875, 34, § 1.*)

### JOINT STOCK INSURANCE COMPANIES.

**80.** Every insurance company with a specific capital shall annually choose by ballot from the stockholders of the company resident within this State, not less than five directors, who shall hold office for one year and until others are chosen and qualified in their stead. Such directors when elected and notified shall, before they are qualified to act, declare their acceptance in writing to the secretary of the company. (*General Statutes, 58, § 27.*)

**81.** Not less than four directors shall constitute a quorum; and all questions shall be decided by a majority of those present. They shall choose annually, by ballot, a president, secretary, and such other officers as the rules direct. Vacancies in any office may be filled by the directors or by a meeting of stockholders called for that purpose. (*Ibid, §§ 27, 28.*)

**82.** The president shall be chosen from the Board of Directors. He shall preside at all meetings of the stockholders and directors, but when absent a president *pro tempore* may be chosen as the meeting determines. The president and secretary shall annually be sworn. (*Ibid, § 28.*)

**83.** The shares of every insurance company organized after the tenth day of May, in the year eighteen hundred and sixty-seven, and having a capital stock divided into shares, shall be fixed at one hundred dollars each. Each share shall be entitled to one vote. Proxies may be authorized in writing. No officer shall vote as proxy, and no stockholder shall, either in person or by proxy, cast more than thirty votes. The record of the votes, whether cast in person or by proxy, made by the secretary or clerk of the company, shall be evidence of all such elections. (*Ibid, § 27; Laws of 1865, 236; 1867, 131.*)

**84.** An executor, administrator, guardian, or trustee, shall represent the shares or stock in his hands at all meetings of the corporation, and may vote as a stockholder. (*Ibid, § 11.*)

**85.** The secretary shall keep a record of the votes of the stockholders and of the directors; a list of the stockholders and number of shares standing in the name of each; a record of all transfers of shares; of all policies issued by the company, and of all assignments and transfers thereof; and such additional books as the president and directors require. (*Ibid, 58, § 28.*)

**86.** Every such company shall register the names and residences of all its stockholders, and all changes therein of which it is notified; shall issue no certificate of stock to a stockholder or purchaser of a share, until he informs the corporation of his actual place of residence; and shall pay no dividend to a stockholder whose actual place of residence is unknown, or has become uncertain, until he informs the corporation thereof. (*Laws of 1864, 201, § 1.*)

**87.** The list of stockholders shall at all times, upon written application by any stockholder, be exhibited for his inspection. If the officer keeping such list refuses so to exhibit the same, he shall forfeit fifty dollars for each offense. (*General Statutes 68, § 10.*)

**88.** All records of transfers of stock in companies incorporated by the sole authority of this State, shall be made and kept within the State. The officer of every company whose duty it is to record such transfers, shall, at the time of his appointment, be a resident within the State, and when he ceases to be a resident the office shall become vacant. (*Ibid*, § 12.)

**89.** In transfers of stock as collateral security, the debt or duty which such transfer is intended to secure, shall be substantially described in the deed or instrument of transfer. A certificate of stock issued to a pledgee or holder of such collateral security shall express on the face of it that the same is so holden; and the name of the pledgor shall be stated therein, who alone shall be responsible as a stockholder. (*Ibid*, § 13.)

**90.** The treasurer, cashier, or other officer who has the lawful custody of the records of transfers of shares, upon the written request of a creditor of the general owner of stock pledged or transferred, shall exhibit to him the record of such transfer; and in case of refusal and of loss to the creditor by reason thereof, the corporation shall be liable for the amount of the loss. (*Ibid*, § 14.)

**91.** Persons holding stock in a corporation as executors, administrators, guardians, or trustees, shall not be personally subject to any liabilities as stockholders; but the estates and funds in their hands shall be liable in like manner and to the same extent as the testator, intestate, ward, or person interested in the trust fund would be if they were respectively living and competent to act and held the stock in their own names. (*Ibid*, § 18.)

**92.** Special meetings of the stockholders may be called by the directors when they think proper; and they shall call such meetings on the written application of the owners of one-fifth part of the capital, or of twenty stockholders, setting forth the purposes of the meeting. (*Ibid*, 58, § 29.)

**93.** At each annual meeting the directors shall cause to be furnished to the stockholders a statement of the condition of the company, and in making dividends shall not consider any part of the premium money divisible until the risks for which the same was paid have absolutely been terminated. But in making up their annual statement they shall be required to charge the company only such portions of the cash or notes received on policies which are unexpired, as would be required to reinsure all outstanding risks. (*Ibid*, § 34.)

**94.** Joint-stock fire and marine insurance companies, organized under the laws of the commonwealth, are hereby authorized to declare and pay to the stockholders of their respective companies, cash dividends, not exceeding ten per centum a year, on their capital stock, and if any dividends are less than ten per cent. in any one year after the passage of this act, the same may be made up when the net profits and income become sufficient therefor, but any such company may issue *pro rata* to its stockholders, certificates of such portions of its actual surplus as the company may from time to time determine, which shall be deemed to be an increase of its capital stock to the extent of such new certificates so issued; but no such dividend either in cash or stock certificate shall be made by any such company except from actual surplus fund of the company; such surplus to be computed in the same manner as is now required by law, by such insurance companies in making their annual report to



the Insurance Commissioner of Massachusetts. (*Laws of 1874, chap. 222, as amended by laws of 1875, chap. 95.*)

**95.** The capital stock, unless otherwise specially provided, shall be paid in cash within twelve months from the date of this charter. No certificates of full shares or policies shall be issued until the whole capital is paid in; nor, unless specially authorized, shall any shares be issued for a less amount to be actually paid in on each share, than the par value of the shares first issued. (*General Statutes, 8, § 30; 68, § 9.*)

**96.** No policy shall be issued until a certificate from the Insurance Commissioner has been obtained authorizing such company to issue policies. The Insurance Commissioner shall examine the capital, and a majority of the directors shall make oath that the money has been paid in by the stockholders toward payment of their respective shares, and not for any other purpose, and that it is intended that the same shall remain as the capital of the company, to be invested as required by the laws of this commonwealth. Every insurance company incorporated in this commonwealth shall pay into the treasury, for the examination required by this section, the sum of thirty dollars. (*Ibid, § 30; Laws of 1867, 267, § 4.*)

#### INVESTMENT OF CAPITAL.

**97.** No insurance company having a specific capital shall insure property in this commonwealth, nor contract for insurance with any residents thereof, unless its paid up capital stock amounts to one hundred thousand dollars, to be invested in accordance with the provisions of section thirty-one of chapter fifty-eight of the General Statutes; *Provided, however,* That nothing contained in this section shall apply to companies chartered with a capital of less amount. (*Laws of 1872, chap. 325, § 2.*)

**98.** Stockholders' obligations of any description not secured as required by the provisions of section thirty-one of chapter fifty-eight of the General Statutes, shall constitute no part of the capital stock or assets of any insurance company doing business in this commonwealth with a specific capital. (*Ibid, § 3.*)

**99.** The capital stock shall be invested in the stocks of the United States, or of this State, or of any city or town in this State, or in any of the banks thereof, or in any railroads thereof which are completed and paid for and the franchises of which are not pledged or mortgaged, or in bonds or railroad corporations in this State; or it may be loaned on mortgages of real estate therein, or on pledges of any of the stocks or bonds named in this section; *Provided,* That no insurance company shall own more than one-fourth of the capital of any one bank, nor invest in nor loan on the stocks and bonds both included of any one railroad company, more than one-tenth of its own capital, nor in the aggregate shall the investment in and loan on all railroad property exceed one-fifth of its capital. Not more than half of its capital shall be loaned on mortgage of real estate, and not more than one-tenth part of the capital actually existing of any company shall be invested in a single mortgage. (*General Statutes, 58, § 31.*)

**100.** Insurance companies may make investment of their capital and other funds in the stock of any banking association located in this commonwealth and organized under the provisions of an

act of Congress entitled "An act to provide a national currency, secured by a pledge of United States stocks, and to provide for the circulation and redemption thereof," approved on the twenty-fifth day of February, in the year eighteen hundred and sixty-three: *Provided, however*, that no insurance company shall hold as collateral security more than one-fourth of the capital of any one of such banking associations. Any insurance company which makes any investment in the stock of any banking association, as authorized by this section, shall continue subject to all the limitations and restrictions contained in the preceding section, except as herein otherwise provided. (*Laws of 1864*, 29, §§ 1, 2.)

**101.** If any investment or loan is made in a manner not authorized by law, the directors making or authorizing the same shall be personally liable to the stockholders for any loss occasioned thereby; but insurance companies chartered by this State now doing business, shall not be compelled to change any investment that was originally legally made. (*General Statutes*, 58, § 31.)

#### RISKS AND POLICIES.

**102.** Companies thus organized may insure vessels, freights, goods, money, effects, and money lent on bottomry or respondentia, against the perils of the sea and other perils usually insured against by marine insurance; and dwelling-houses and other buildings, merchandise and other personal property, against loss by fire, according to their respective charters. (*Ibid*, § 32.)

**103.** All policies shall be signed by the president and secretary; or in the absence of the president by two directors, and in the absence of the secretary by a secretary *pro tempore*. Policies signed by the vice-president shall have the same force and effect as if signed by the president or two directors. (*Ibid*, § 32; *Laws of 1864*, 113, § 2.)

**104.** No stock company shall hold, on any one risk, a sum exceeding one-tenth part of the capital existing, and surplus, after deducting all losses, claims, liabilities and debts due from the company. When the capital has been reduced by losses, or from any other cause, the amount thereafter to be taken on any one risk shall correspondingly be reduced to the limitation herein prescribed. If the directors allow more to be insured on any one risk, they shall be liable for a loss on any amount exceeding one-tenth the existing capital. (*Ibid*, §§ 32, 33.)

**105.** If any company is under liability for losses actually sustained equal to the capital, and the president and directors knowing it make insurance or assent thereto, they shall be personally liable for the loss if any under such insurance. When the charter permits the capital stock to be paid by installments, if the capital is lessened by losses before all installments are paid in, each stockholder shall be liable for the installments unpaid on his shares at the time of such loss; and no dividend shall be made until the capital is restored to its original amount. (*Ibid*, § 33.)

**106.** Joint stock insurance companies and mutual insurance companies with a guarantee capital incorporated or organized under the laws of this commonwealth, are hereby authorized to issue policies of insurance which shall not limit or restrict the term of the risk, against loss or damage by fire or lightning, on buildings occu-

pied solely for dwelling-house purposes, together with the out-buildings and private stables usually belonging thereto, and on buildings used exclusively for religious, charitable, and educational purposes; *Provided*, That no such policy shall be issued, until the insured has made a deposit in cash with said companies, the annual interest of which shall be not less than an adequate yearly rate of premium on the risk incurred; and *Provided, further*, That no part of said deposit shall be returned to the insured, while such risks continue in force. (*Laws of 1875, chap. 72, § 1.*)

**107.** All sums deposited with any insurance company, for the purpose of insurance under the provisions of this act, shall be set apart and invested, and shall constitute a distinct fund, the income from which shall become a part of the general funds of the company; but no part of such distinct fund shall be used except as in manner hereinafter provided, nor shall the same be advertised in any publications of the company in any other manner than as deposits upon perpetual policies. (*Ibid, § 2.*)

**108.** Whenever a policy of insurance issued under the provisions of this act, is terminated at the request of the company, the full amount of the deposit upon the same shall be paid to the insured from said distinct fund, and whenever a policy so issued is terminated at the request of the insured, or in consequence of loss under the same, ninety per cent. of the deposit shall be paid to the insured from the distinct fund, and the balance thereof shall be drawn from said fund, and be entered in and become a part of the general funds of the company. In the event of the insolvency of the company, the deposits made for insurance under the provisions of this act shall be returned to the insured under the same. (*Ibid, § 3.*)

**109.** The provisions of the third section of this act shall be expressed in full in any policy issued under this act, before the signatures of the officers signing the same. (*Ibid, § 84.*)

#### IMPAIRMENT OF CAPITAL.

**110.** Whenever, after setting aside a sum equal to the premiums for the unexpired term on existing risks, the cash assets of any fire insurance company with a specific capital do not amount to more than three-fourths of its original capital, the company may by assessing the stock for the difference, repair its capital to the original amount. Shares on which such assessment is not paid within sixty days after demand upon the owner thereof shall be forfeitable and subject to be canceled by a vote of the directors, and new shares may be issued to make up the deficiency. (*Laws of 1863, 249, §§ 7, 8; 1875, 27, § 6.*)

**111.** Sections seven and eight of chapter two hundred and forty-nine of the acts of the year eighteen hundred sixty-three, relating to the impairment of capital, shall be held to include companies doing any kind of insurance business with a specific capital. (*Laws of 1872, chap. 322, § 1.*)

**112.** Any insurance company with a specific capital which does not, within three months after receiving notice from the Insurance Commissioner that its capital is legally subject to repair as aforesaid, satisfy him that it has been fully restored to its original amount, with a reserve of premium sufficient to reinsure all out-

standing risks, or decreased in accordance with the laws of this commonwealth, shall be proceeded against according to the provisions of section sixty. (*Laws of 1863, 249, §§ 6, 9.*)

**113.** Whenever the capital stock of any fire, marine, or fire-marine insurance company, organized or incorporated pursuant to law, is impaired, such company may reduce its capital stock and the number of shares thereof to such an amount as truly represents the assets and property of such company; *Provided*, That no part of its assets and property shall be distributed to the stockholders of said company, and that said capital stock shall not be reduced below the minimum sum required by the laws of this commonwealth. (*Laws of 1875, chap. 27, § 1.*)

**114.** No reduction of the capital of any such company shall be made, except upon a vote of a majority of the stockholders of said company had at a meeting duly and legally called for that purpose; and within ten days after said meeting a certificate, setting forth the proceedings of said meeting and the amount of the reduction of the capital stock of said company, shall be signed and sworn to by the president, secretary and a majority of the directors of said company and presented to the Insurance Commissioner, who shall examine the facts in the case, and if the same conform to law, shall endorse his approval thereof: and such certificate, so approved, shall be filed with the secretary of the commonwealth. (*Ibid, § 2.*)

**115.** Upon filing the certificate provided in the second section of this act, such company shall with such reduced capital possess the same rights and be subject to the same liabilities that it possessed or was subject to at time of the reduction of its capital; and the charter of such company shall be deemed to be amended so as to conform to such reduction; and the Insurance Commissioner shall issue his certificate to that effect. (*Ibid, § 3.*)

**116.** Such company may, by a majority vote of its directors, after said reduction of capital shall have been made as aforesaid, require the return of the original certificates of stock held by each stockholder and in lieu thereof issue new certificates for such number of shares as the said stockholder shall be entitled to, in the proportion that the reduced capital may be found to bear to the original capital of said company. (*Ibid, § 4.*)

**117.** It shall be lawful for any joint stock fire, marine, or fire-marine insurance company, incorporated under any special laws of this commonwealth, to increase its capital stock as provided in section thirteen chapter three hundred and seventy-five of the acts of the year eighteen hundred and seventy-two. (*Ibid, § 5.*)

## MUTUAL FIRE INSURANCE COMPANIES.

**118.** Every mutual fire insurance company shall annually elect by ballot not less than seven directors, citizens of this State, and, after the first election, members of the company, who shall manage and conduct the business thereof. Every person insured by the company shall be a member, and each member shall be allowed one vote for each policy held by him. Members may vote by proxies dated and executed within six months, and returned and recorded on the books of the company at least three days previous to the meeting of the company at which the same are used; but no person shall be allowed by proxy or otherwise to cast more than



twenty votes; and no paid officer or agent shall vote as proxy for any absent member. No paid officer or agent shall ask for, receive, procure to be obtained or use any proxy vote in the corporation with which he is connected. Any officer or agent who violates the provisions of this act shall forfeit and pay a fine of not less than one hundred dollars nor more than three hundred dollars. (*Laws of 1872, 230, § 1.*)

**119.** All members of mutual life and fire insurance companies incorporated under the laws of this commonwealth, shall be notified of the time and place of holding the annual meetings of said companies by a written notice or by an imprint upon the back of each policy, receipt, or certificate of renewal, in the following form, to wit: "By virtue of this policy the assured is hereby notified that he is a member of the Insurance Company, and that the annual meetings of said company are holden at its home office on the day of in each year, at o'clock, ." The blanks shall be duly filled in making the aforesaid imprint, and the same shall be deemed a sufficient notice as herein provided. (*Laws of 1870, 349, § 7.*)

**120.** The directors of every corporation which becomes a member of any mutual company, may authorize one or more of the stockholders of such corporation to represent the same in all meetings of such company; and such representatives shall vote and be eligible to the office of the director in the company. (*General Statutes, § 47.*)

**121.** The directors of every such company shall annually choose by ballot one of their number as president, a secretary and treasurer, who shall annually be sworn, and a record of the oath shall be entered upon the books of the company. (*Ibid, § 44.*)

**122.** Not less than five directors shall constitute a quorum, and all questions shall be decided by a majority of those present. Vacancies in any office may be filled by the directors until the next annual election, or by a new election at a meeting called for that purpose. Special meetings of the members may be called when ordered by the directors, and the directors shall call such meetings when requested in writing so to do by any twenty members. (*Ibid, § 45.*)

**123.** The secretary shall keep true records of the meetings of the corporation and of the directors, and of all votes passed by them; and record a copy of all policies issued by such company, and all assignments or transfers of the same, when properly assented to, which record shall be open to the inspection of any persons interested therein. (*Ibid, § 44.*)

**124.** No policy shall be issued by a mutual fire insurance company incorporated subsequently to the twenty-seventh day of March, in the year eighteen hundred and fifty-eight, until the sum of two hundred and fifty thousand dollars has been subscribed to be insured and entered on the books of the company. The policies issued and the deposit notes given for said insurance, which notes shall not exceed double the amount paid as cash premium, shall be of the same date. (*Ibid, § 58.*)

**125.** Mutual fire insurance companies created under the laws of this State may issue policies on any property included in the terms of their charter, situated in the New England States, New York, Pennsylvania, and New Jersey. (*Laws of 1875, chap. 59, § 1.*)

**126.** No mutual fire insurance company shall contract for in-

surance on any one risk for a greater amount than they intend to retain; nor with the view or intention of reinsuring any part thereof. (*General Statutes*, 58, § 55.)

**127.** No policy shall be issued on the mutual plan for a greater amount than three-fourths of the value of the property insured. (*Ibid*, § 52.)

**128.** Every policy issued by a mutual fire insurance company previously to the thirtieth day of April, in the year eighteen hundred and sixty-two, shall create a lien\* on the personal property, and on any building insured and the land under the same, for securing the payment of the deposit note, or other liabilities, or any sums assessed upon the same; *Provided*, That the extent of the liability and the intention of the company to rely upon the lien are set forth on the face of the policy. Upon the alienation of the property to a *bona fide* purchaser, the lien shall cease as to all losses which thereafter occur, unless the policy is continued by consent of the purchaser and the company. If it becomes necessary to resort to such lien for the payment of the liabilities secured thereby, the treasurer shall demand payment from the insured, and also from the tenant in possession, or the person having possession of the personal property, setting forth in writing the sum due; and in case of non-payment the company may sue and levy the execution upon the property or estate. The officer making the levy may sell the whole or any part thereof by auction, and apply the proceeds in the same manner, and the owner shall have the same right to redeem as in the sale of an equity of redemption of real estate. (*Ibid*, § 52; *Laws of 1862*, 181, § 4.)

**129.** A person holding property in trust may effect insurance on such property in any mutual fire insurance company incorporated in this State, and for that purpose may, as such trustee, assume the liabilities and create all the liens upon the property so insured which other persons, on becoming members of such insurance companies, assume and create. He shall not be liable, in his individual capacity, upon such contract of insurance. (*Ibid*, § 59.)

**130.** Every member of a mutual company shall, at the expiration of his policy, have a share in the profits of the company during the time his policy was in force, in proportion to the sums by him paid on account of said policy according to the contract or policy, after all expenses, losses, and liabilities then incurred, including a sum sufficient to reinsure all outstanding risks, have been deducted. And he shall, in like manner, be subject to pay any assessments which may be laid by such company for the payment of losses and expenses, in accordance with its charter and the laws regulating such companies. (*Ibid*, § 61; *Laws of 1863*, 249, § 6.)

**131.** The directors of mutual fire insurance companies may divide the property insured into not exceeding four classes. The policy shall designate the class, and the assessments shall be made upon premiums and deposits belonging to the class in which the loss occurs; but no policy shall be issued in a separate class, until five hundred thousand dollars are subscribed to be insured in that class on one date, and the same is entered on the books of the company. The expenses of the company not strictly applicable to either class shall be apportioned to each class according to the

\* The lien is abolished, as regards all policies issued on or after said date, by chapter 181, section 4, of the acts of 1862.

amount of premiums paid by that class for the same period; and in a division of the funds and returns of premiums and deposits each member shall be entitled to receive his proportion of the profits belonging to the class in which he was insured. No money belonging to one class, received either as premium or assessment in said class, shall be used to pay losses or expenses or other liability of any other class. (*Ibid*, § 53.)

#### ASSESSMENTS.

**132.** When the just claims against a mutual fire insurance company exceed the funds, its directors shall assess such sums as may be necessary upon the members, in proportion to their premium and deposit, no member being liable to pay in addition to his premium and deposit more than a sum equal to his said premium and deposit; and in case of classification of risks, said assessment shall be made upon such premium and deposit as were given upon hazards associated with the property upon which losses have occurred. (*Ibid*, § 48.)

**133.** Mutual fire insurance companies, upon making an assessment, shall keep a record of the vote passed by the directors, for making the same, with a statement of the condition of the company at the time such assessment is made. When an assessment is ordered, the whole amount to be raised and the particular losses or other liabilities of which said amount consists shall be stated. The statement shall separately show the amount of cash on hand, of deposit notes, and of liabilities subject to such assessment, and it shall be recorded in a book kept for that purpose, and signed by the directors voting for such assessment. Companies dividing their risk and insuring in separate classes shall make such statement for each class in which an assessment is ordered. Any member of the company may inspect such statement and take a copy of the same; and a person who is liable to assessment shall be considered a member. No assessment shall be collected until such statement and record are made. (*Ibid*, § 54.)

**134.** Whenever the directors of any mutual fire insurance company find that its funds, other than premium notes, are not equal to the cash premium on the unexpired term of the existing risks, and that the company is in danger of becoming insolvent, instead of the assessment or call hereinbefore provided, they may make two assessments, the first determining what each policy-holder must equitably pay or receive in case of withdrawal from the company and having his policy canceled, the second what further sum each must pay in order to reinsure the unexpired term of his policy at the same rate as the whole was insured at first. Each policy-holder shall pay or receive according to the first assessment, and his policy shall then be canceled unless he prefers to pay the further sum determined by the second assessment, in which case his policy shall continue in force; *Provided*, That in neither case shall any policy-holder receive or have credited to him more than he would have received on having his policy canceled by vote of the directors under the by-laws of the company. (*Laws of 1863*, 249, § 4.)

**135.** Whenever the directors in any mutual fire insurance company make an assessment or call on its members for money, or

by vote determine that there exists a necessity for such assessment or call, they, or any person interested in the company as an officer, policy-holder, or creditor, may apply to the supreme judicial court for any county, by a petition in the nature of a bill in equity, praying the court to examine said assessment, or call, the necessity therefor, or all the matters connected therewith, and to ratify, amend, and annul the assessment or call, or to order that the same be made, as law and justice may require; *Provided*, Such application when made by any party except the corporation, or a receiver, or the Insurance Commissioner, shall rest in the discretion of the court. Whenever the directors unreasonably neglect to make an assessment or call to satisfy an admitted or ascertained claim upon the company, any judgment creditor, or any person holding such admitted or ascertained claim, or the Insurance Commissioner, may make the application to the court. Upon such application, if made by the directors, or upon any order of the court, if made by application of any other party, the directors shall set forth the claims against the company, its assets, and all other facts and particulars appertaining to the matter. (*Ibid*, 181, § 1; 1863, 249, § 5.)

**136.** The court before which such petition is filed shall order notice to be given to all parties interested, by publication, or otherwise, and upon the return thereof shall proceed to examine the assessment, or call, or the necessity therefor, and all matters connected therewith. Any parties interested may appear and be heard thereon. All questions that arise shall be heard and determined as in other equity cases. (*Ibid*, § 2.)

**137.** The application shall be referred to an auditor, who shall appoint a time and place to hear all parties interested in the assessment, or call, and shall give personal notice thereof in writing to the Insurance Commissioner, and through the post-office, so far as he is able, to all persons liable upon said assessment or call. The auditor shall hear the parties, and report upon the correctness of the assessment, or call, and all matters connected therewith. The court may refer the apportionment or calculation to any competent person; and upon the examination may ratify, amend, or annul the assessment, or call, or order one to be made; and may make such orders and decrees in the premises as under all the circumstances justice and equity require. In case the assessment, or call, is altered or amended, or one is ordered to be made, the directors shall forthwith proceed to vote the same in legal form, and the record of such vote shall be set forth in a supplemental bill or answer. (*Ibid*, § 2; 1863, 249, §§ 3, 5.)

**138.** When an assessment or call has been, as above, provided, ratified, ascertained, or established, a decree shall be entered, which shall be final and conclusive upon the company and all parties liable to the assessment or call, as to the necessity of the same, the authority of the company to make or collect the same, the amount thereof, and all formalities connected therewith. And where an assessment or call hereafter made is altered or amended by vote of directors, and decree of the court thereon, such amended or altered assessment or call shall be binding upon all parties who would have been liable under it as originally made, and in all legal proceedings shall be held to be such original assessment or call. All proceedings above provided for shall be at the cost of the company, unless the court for cause otherwise order; and in all cases



the court may control the disposition of the funds collected under these proceedings. (*Ibid*, § 3.)

**139.** If it appears to the presiding judge of the court before which such application is pending, that the net proceeds of any assessment or call will not be sufficient to furnish substantial relief to those having claims against the company, the judge may decree that no assessment shall be collected; and when, upon the application of the Insurance Commissioner, or any person interested, the judge is of opinion that further attempts to collect any assessment then partially collected will not benefit those having claims against the company, he may stay the further collection of said assessment. (*Ibid*, 1863, 249, § 3.)

**140.** If, within two months after the assessments have become collectable, the amount of the policies whose holders have settled for both assessments does not equal the amount required by the charter of the company for the commencement of business, and in no case less than two hundred and fifty thousand dollars, the company shall cease to issue policies; and all policies whose holders have not settled for both assessments shall then be void, and the company shall continue only for the purpose of adjusting the deficiency or excess of premiums among the members, and settling outstanding claims. (*Ibid*, § 4.)

**141.** No assessment shall be laid on any member whose policy has expired or been canceled for the period of two years; and no assessment shall be valid against any person who has not been duly notified thereof in writing within two years after the expiration or cancellation of his policy. (*General Statutes*, 58, § 54; *Laws of* 1865, 10.)

**142.** Whenever it appears to the supreme judicial court, upon a petition in the nature of a bill in equity, by any member of a mutual fire insurance company, or by the Insurance Commissioner, that further attempts to collect any assessment then partially collected will not furnish substantial relief to those having claims against the company, the court may stay the further collection of said assessment. (*Laws of* 1864, 161, § 1.)

**143.** Any officer or director of a mutual fire insurance company, who either officially or privately gives a guaranty to any policy-holder thereof against an assessment to which he would otherwise be liable, shall be punishable with a fine not exceeding one hundred dollars for each offense. (*Ibid*, 1860, 149.)

**144.** When sufficient property of a mutual fire insurance company can not be found to satisfy an execution issued against it, and it has property belonging to the period assessed, the proceeds of which can be applied to satisfy such execution, if the directors neglect to pay the same, or neglect for thirty days after the rendition of judgment to make an assessment and deliver the same to the treasurer for collection, or to apply such assessment when collected to the payment of the execution, they shall be personally liable for the amount of the execution. (*General Statutes*, 58, § 48.)

**145.** When the directors of a mutual company are liable to pay an execution against the company, the creditor may recover the same by a suit in equity or by an action at law against the directors. Any director who pays an execution against the company for which he is personally liable, may have a suit at law with equitable remedies for contribution against any of the directors for their proportion, and also a suit at law with equitable remedies against the

company or the individual members thereof who are liable therefor, for money so paid for them; *Provided*, That no member shall be liable to pay in addition to his premium and deposit more than a sum equal thereto. (*Ibid*, § 50.)

**146.** If the treasurer of a mutual company unreasonably neglects to collect an assessment made by order of the directors and to apply the same to the payment of the claims for which it was made, he shall be liable in his private capacity to the party having such claims for the amount of the assessment; and he may repay himself out of any money afterward received for the company on account of said assessment. (*Ibid*, § 49.)

**147.** If a mutual fire insurance company is owing for money borrowed to pay losses or expenses, or is owing for losses or expenses which it can not pay otherwise than by borrowing money, and the directors neglect or omit, for the space of six months after such losses or expenses became due and payable, to lay and collect with all practicable diligence an assessment which, with other cash funds on hand, if any, is sufficient to discharge all the existing indebtedness of the company, they shall be personally liable for all debts and claims then outstanding against the company, and for all thereafter accruing, until an assessment is laid and put in process of collection, as aforesaid; *Provided*, That in case of such existing indebtedness by any company, six months shall be allowed after the passage of this act. (*Laws of 1863*, 317, § 2.)

## STOCK AND MUTUAL (COMBINED) INSURANCE COMPANIES.

**148.** No mutual fire insurance company shall issue policies on any other than the mutual plan of insurance, excepting such companies as have been chartered as stock and mutual companies; and such companies, if doing business in Boston, either directly or through agencies, before issuing policies or transacting any business in the stock department, shall have a guaranty capital of at least one hundred thousand dollars, paid in and invested as required by sections eighty-eight, eighty-nine and ninety, exclusive of stockholders' notes (unless such notes are secured by mortgage or by pledges of stock or bonds, as provided in section eighty-nine), and of all debts due from the company, and such proportion of all premiums received in cash for risks not terminated, as would be requisite to reinsure the same. If doing business in any other city or town, the sum of at least fifty thousand dollars shall be paid in and invested in like manner, and be subject to like conditions and restrictions. (*General Statutes*, 58, § 56.)

**149.** All business and investments on account of the stock department of such companies shall be separately kept, and the returns to the Insurance Commissioner respecting the same shall be according to the form prescribed or authorized for joint stock insurance companies. The business done on the mutual principle shall also be kept separate, and returns made agreeably to the form prescribed or authorized for mutual fire insurance companies. (*Ibid*, § 56.)

**150.** Such combined companies shall not take on any one risk in their stock department a sum exceeding one-tenth of their capital stock; and when the capital stock is reduced in any way, the

amount thereafter to be taken on any one risk shall forthwith be correspondingly reduced to the limitation in section ninety-four, until the capital is restored to its original amount. (*Ibid*, § 56.)

**151.** One-half of the directors of every mutual fire insurance company with a guaranty capital, shall be chosen from the holders of the guaranty stock, and the other half from the members of the mutual department. (*Ibid*, § 46.)

**152.** The secretary shall keep a true list of stockholders of the guaranty capital, and of the number of shares held by each, and a record of the transfer of shares. (*Ibid*, § 46.)

**153.** Special meetings may be called by the directors when they think proper, and shall be called by them upon the written application of the owners of one-fifth of the guaranty stock, or of twenty members of the mutual department, setting forth the purposes of the meeting. (*Ibid*, § 46.)

### MUTUAL MARINE, AND MUTUAL FIRE-MARINE, INSURANCE COMPANIES.

**154.** Mutual marine and mutual fire and marine insurance companies established by the laws of the State shall be subject to the provisions of sections ninety-eight, ninety-nine, one hundred one, one hundred two, and one hundred three, relating to mutual fire insurance companies, and shall before commencing business have an agreement substantially as follows, viz.:

"The subscribers, members of the insurance company, severally agree to pay said company on demand the sums set against our names, or such part thereof as may be called in for the use of the company, in money or promissory notes." (*Ibid*, § 35.)

**155.** Policies of insurance may be issued by such company when two hundred thousand dollars, if the company is in Boston, or one hundred thousand dollars, if the company is in any other city or town in the State, has been subscribed and paid in cash or notes payable on time not exceeding twelve months; and the president and majority of the directors have certified that the subscribers, are known to them, and they believe them solvent and able to pay their subscriptions; and a copy of the certificate has been deposited with the Insurance Commissioner and approved by him. Subsequent subscriptions shall be made and certified in like manner; and a like copy shall annually, on or before the first day of November, be filed with the Commissioner. (*Ibid*, § 35.)

**156.** The subscriptions provided for in the two preceding sections shall constitute a permanent fund, to be used when necessary for payment of the losses and expenses of the company; but shall not be applied to pay the premiums for insurance effected by the subscribers. The subscription notes as they mature shall be paid in or other notes substituted therefor, so that the amount of the original fund shall not be reduced. (*Ibid*, § 27.)

**157.** If any subscriber fails to pay his subscription, and it is proved that the president or a director knowingly certified falsely in regard to such subscriber, the person certifying shall be liable to the company for such sum as the subscriber fails to pay, (*Ibid*, § 37.)

**158.** The subscription notes, or any *pro rata* portion thereof may be canceled whenever the net profits of the business are sufficient

to replace the same; and such profits shall then be invested as prescribed in sections eighty-nine and ninety, thereafter to be held as the permanent fund in place of said notes. All payments made on subscription notes and all cash funds not required for the current uses of the company shall be invested in the same manner. (*Ibid*, § 37.)

**159.** Each subscriber, during the term of his subscription, and each person insured, shall be a member of the company; but persons insured shall not remain members after the termination of the risk and the payment of the loss, if any, thereon. (*Ibid*, § 36.)

**160.** No company shall hold on one risk more than ten per cent. of its subscriptions and invested funds, not pledged, and premium notes on risks absolutely terminated, after deducting therefrom all losses and claims for losses, or cash received for risks not terminated, and all debts. Whenever by means of open policies or indorsements thereon more than ten per cent. is so at risk, the directors shall, as soon as may be, obtain reinsurance for the amount of such excess. (*Ibid*, § 37.)

**161.** If a company is at any time liable for losses beyond the amount of its cash fund, legal investments, premium notes received from risks terminated, and subscription notes, the president and directors, knowing the condition of the company, shall be personally liable for all losses occurring on insurance effected during such state of the company. (*Ibid*, § 38.)

**162.** The directors shall require the president to make a monthly statement to them of the assets and liabilities of the company; which statement shall be entered upon their records, or in a book kept for that purpose. (*Ibid*, § 39.)

**163.** Mutual marine insurance companies incorporated in this State, which have been in operation not less than twelve months, shall cause an annual dividend statement to be made up in each year, containing a fair estimate of the net profits of the company not before divided, taking into view the probable amount to be paid on all claims, outstanding risks, and demands against the company, and including expenses, interest, and allowances for previous deficiencies. After ascertaining in this mode the net profits of the year on the risks terminated, the directors may declare a dividend of such profits of a certain per cent. on the premiums received for such terminated risks, and the subscriptions made to the safety fund in that year, and may issue certificates representing said dividend to the persons in whose names the policies of insurance and subscriptions for the year, in conformity to the provisions of sections one hundred thirty-three and one hundred thirty-four, were originally made, or to their legal representatives. (*Ibid*, § 40.)

**164.** The certificates shall be transferable only on the books of the company, under regulations to be prescribed by the by-laws, and shall contain a provision declaring the same to be subject to future losses and expenses of the company until they are redeemed as hereinafter provided, and subject to be reduced by the directors in case of losses and expenses in any subsequent year exceeding the estimated profits of such year. But such original certificate need not be issued for a less sum than ten dollars. All such sums may be passed to the contingent accounts of the company. (*Ibid*, § 40.)

**165.** Such companies may pay on the certificates issued in conformity with the preceding sections, from the accrued income of



their invested funds, interest not exceeding six per cent. per annum; and whenever the net profits of any such company exceed the sum of two hundred and fifty thousand dollars, the excess may be applied from year to year thereafter to the redemption of the certificates of the previous years in such manner as the directors determine; but no certificates of any year shall be redeemed while certificates of previous years remain unredeemed. When the accumulations of net profits of such company exceed the sum of five hundred thousand dollars, such excess shall be so applied. (*Ibid*, § 41.)

**166.** When a person entitled to a certificate of profits is indebted to such company for any sum past due, the company may withhold the certificate and deduct such sum from the amount thereof, and reduce or cancel the same; but persons holding policies of the company or entitled to certificates shall not be answerable by reason thereof, or for anything contained therein, except for the payment of their premium or other notes in advance for premiums. (*Ibid*, § 42.)

**167.** No insurance company hereafter chartered, with authority to effect marine insurance on the mutual principle, shall issue policies until at least one-half of the subscribed capital or safety fund required by law has been paid in in cash. The provisions of law relating to the capital of joint stock insurance companies shall be applicable to the cash capital of such mutual companies. (*Laws of 1868*, 317, § 3.)

## STOCK OR MUTUAL FIRE, MARINE, OR FIRE-MARINE INSURANCE COMPANIES.

**168.** Any ten or more persons residents of this commonwealth, who shall have associated themselves together by an agreement, in writing, such as is hereinafter described, with the intention to constitute a corporation for the purpose of transacting the business of insurance, either upon the stock or mutual principle, against loss or damage by fire, by lightning, by tempest, or by the perils of the sea, and other perils usually insured against by marine insurance companies, including risks of inland navigation and transportation, shall become a corporation upon complying with the provisions of section nine of this act, and shall remain a corporation with all the powers, rights and privileges, and subject to all the duties, liabilities and restrictions set forth in all general laws which are or may be in force relating to insurance corporations. (*Laws of 1872*, chap. 375, § 1.)

**169.** Such agreement shall set forth the fact that the subscribers thereto associate themselves with the intention to constitute a corporation, the name by which the corporation shall be known, the class or classes of insurance for the transaction of which the corporation is constituted, the plan or principle upon which the business is to be conducted, the town or city (which town or city shall be within this commonwealth) in which it is established or located, and if a joint stock company, the amount of its capital stock, and if a mutual company with a guarantee capital, the amount thereof. The capital stock of a joint stock company insuring against loss or damage by fire, or by fire and lightning only, shall not be less than two hundred thousand dollars if the company is located in

Boston, and not less than one hundred thousand if located elsewhere. If insuring marine or inland risks, either alone or in conjunction with fire risks, its capital stock shall not be less than three hundred thousand dollars if the company is located in Boston, and not less than two hundred thousand dollars if located elsewhere. (*Ibid*, § 2.)

**170.** Any mutual fire insurance company may be organized under the provisions of this act with a guarantee capital of not less than one hundred thousand dollars, and not more than three hundred thousand dollars, divided into shares of one hundred dollars each, and no policy shall be issued by such corporation until the whole amount of the guarantee capital fixed by the articles of association has been paid in in cash, and invested in accordance with the provisions of section thirty-one of chapter fifty-eight of the General Statutes and chapter twenty-nine of the acts of the year eighteen hundred and sixty-four. (*Ibid*, § 3.)

**171.** Any mutual marine, and mutual fire and marine insurance company may be organized under the provisions of this act, with a permanent fund of not less than four hundred thousand dollars, subscribed under the provisions of sections thirty-five and thirty seven of chapter fifty-eight of the General Statutes; and no policy shall be issued by such corporation until one-half said permanent fund has been paid in in cash, which shall be divided into shares of one hundred dollars each. Such corporations may increase said permanent fund to an amount not exceeding one million of dollars. (*Ibid*, § 4.)

**172.** Any name not previously in use by an existing corporation or company, may be adopted; *Provided*, That the words "insurance company" shall constitute a part of the title, and if the business is to be conducted upon the mutual principle, the words "mutual insurance company" shall constitute a part of such title. No certificate shall be granted to any corporation as hereinafter provided, if in the judgment of the Insurance Commissioner the name adopted too closely resembles the name of an existing corporation or company, or is likely to mislead the public. (*Ibid*, § 5.)

**173.** The first meeting for the purpose of organization shall be called by a notice, signed by one or more of the subscribers to such agreement, stating the time, place and purpose of the meeting, a copy of which notice shall, seven days at least before the day appointed, be given to each subscriber, or left at his usual place of business or residence, or deposited in the post-office, postage prepaid, and addressed to him at his usual place of business or residence. And whoever gives such notices shall make affidavit of his doings, which shall be entered upon the records of the company; *Provided, however*, That when organizations shall be commenced prior to the first day of January, in the year eighteen hundred and seventy-three, the foregoing notice may be waived by a written acknowledgment of the receipt of notice signed by the subscribers, which shall be sufficient evidence that due notice has been given. (*Ibid*, § 6.)

**174.** At such first meeting, including any adjournment thereof, an organization shall be effected by the choice by ballot of a temporary clerk, who shall be sworn to the faithful discharge of his duty, by the adoption of by-laws and by the election, in the manner provided by law, of directors and such other officers as the by-laws require; but at such first meeting no person shall be elected director

who has not subscribed to the articles of association. The temporary clerk shall record the proceedings until and including the qualification of the secretary of the corporation by his being duly sworn. (*Ibid*, § 7.)

**175.** The directors so chosen shall elect a president, a secretary, and any other officers which under the by-laws they are authorized to choose. (*Ibid*, § 8.)

**176.** The president, secretary and a majority of the directors shall forthwith make, sign and swear to a certificate setting forth a copy of the articles of association, with the names of the subscribers thereto, the date of the first meeting, and of any adjournments thereof, and shall submit such certificate and the records of the corporation to the inspection of the Insurance Commissioner, who shall examine the same, and who may require such other evidence as he may judge necessary. The Commissioner, if it shall appear that the requirements of the preceding sections of this act have been complied with, shall certify that fact, and his approval of the certificate, by indorsement thereon. Such certificate shall thereupon be filed in the office of the Secretary of the Commonwealth by said officers, and upon being paid by them the fee hereinafter provided, the secretary shall cause the same, with the indorsement thereon, to be recorded, and shall thereupon issue to said corporation a certificate in the following form :

*Commonwealth of Massachusetts :*

Be it known, that whereas [here the names of the subscribers to the articles of association shall be inserted] have associated themselves with the intention of forming a corporation under the name of [here the name of the corporation shall be inserted], for the purpose [here the purpose declared in the articles of association shall be inserted], with a capital or with a permanent fund of [here the amount of capital or permanent fund fixed in the articles of association shall be inserted], and have complied with the provisions of the statutes of this commonwealth in such case made and provided, as appears from the certificate of the president, secretary and directors of said corporation, duly approved by the Insurance Commissioner, and recorded in this office. Now, therefore, I [here the name of the secretary shall be inserted], secretary of the commonwealth of Massachusetts, do hereby certify that said [here the names of the subscribers to the articles of association shall be inserted], their associates and successors, are legally organized and established as, and are hereby made an existing corporation under the name of [here the name of the corporation shall be inserted], with the powers, rights, and privileges, and subject to the duties, liabilities, and restrictions which by law appertain thereto. Witness my official signature hereunto subscribed, and the seal of the Commonwealth of Massachusetts hereunto affixed this                      day of                      , in the year of our Lord                      . [In these blanks the day, month, and year of execution of the certificate shall be inserted, and in the case of purely mutual companies, so much as relates to capital stock shall be omitted.]

The secretary of the commonwealth shall sign the same, and cause the seal of the commonwealth to be thereto affixed, and such certificate shall have the force and effect of a special charter, and be conclusive evidence of the organization and establishment of such

corporation. The secretary shall also cause a record of such certificate to be made, and a copy of such record, duly certified, may, with like effect as the original certificate, be given in evidence to prove the organization and establishment of such corporation. (*Laws of 1872, 375, § 9.*)

**177.** No policy shall be issued by a purely mutual company organized under the provisions of this act, until the sum of five hundred thousand dollars shall have been subscribed to be insured and entered on the books of the company: *Provided, however,* That in any town of less than four thousand inhabitants, a company may be organized under the provisions of this act, to insure dwelling-houses, farm buildings, and contents only, within the limits of the town where said company is located, and may issue policies when fifty thousand dollars have been subscribed to be insured. (*Laws of 1872, 375, § 10.*)

**178.** The holders of stock in mutual fire insurance companies with a guarantee capital organized under the provisions of this act shall be entitled to a net semi-annual dividend not exceeding five per centum on their respective shares, if the net profit, after providing for all expenses, losses, and liabilities then incurred, including a sum sufficient to reinsure all outstanding risks, is sufficient from time to time to pay the same; and if any such dividend is less than five per centum it shall be made up when such net profit becomes sufficient therefor. Three-fourths of said net profit, after the payment of said dividends, shall be credited to, and, at the expiration of the policies, divided among the insured, and the remaining one-fourth shall be invested and be a reserve for the security of the insured; but when from time to time the reserve shall exceed five per centum on the amount insured, the whole of said net profit in excess of said reserve of five per centum shall, after the payment of said dividends, be divided among the insured at the expiration of their policies.

The guarantee capital shall be applied to the payment of losses only when the other cash funds have been exhausted; and if the guarantee capital shall at any time be reduced, it shall be replaced from the first accumulation of the reserve, or the directors may at their discretion replace the whole or any part of it by assessments upon the contingent funds in the possession of the company at the time of said reduction.

Shareholders and policy-holders in corporations referred to in this section shall be subject to the same provisions of law in voting at all meetings of such corporations as apply respectively to shareholders in joint stock companies and policy-holders in purely mutual companies, and the directors may be elected from the stockholders or policy-holders, not less than one-half being from the holders of stock. Such companies may insure property located in any part of the United States and for its full value, and shall be subject to the provisions of chapter two hundred and eighty-three of the acts of the year eighteen hundred and sixty-five. (*Laws of 1872, 375, § 11, as amended by laws of 1873, chap. 177.*)

**179.** The holders of shares in the permanent fund of any mutual marine, or mutual fire and marine insurance company, shall be entitled to a semi-annual dividend of not exceeding six per centum, and the makers of the promissory notes constituting any part of such fund shall be entitled to a semi-annual dividend not exceeding two and one-half per centum of the amount of such notes, if the



profits and income of the company, after providing for all expenses, losses, and liabilities then existing, including a sum sufficient to re-insure all outstanding risks, as provided by the laws of the commonwealth, are sufficient to pay the same, and if any dividends are less than those amounts respectively, the same shall be made up when such net profits and income become sufficient therefor.

The directors may declare each year a dividend of the remainder of such net profits and income on the premiums received on risks terminated during the year, and issue certificates therefor, as provided in the general laws relating to mutual marine, or mutual fire and marine insurance companies; *Provided*, That no such certificates shall be redeemed until the accumulation of net profits exceed the sum of five hundred thousand dollars, and no certificates shall be redeemed until the directors so determine.

The shareholders in corporations referred to in this section shall be the members of the company, and subject to the same provisions of law in voting at all meetings of such corporations, as apply to shareholders in joint-stock companies. All such companies shall be subject to the provisions of chapter two hundred and eighty-three of the acts of the year eighteen hundred and sixty-five. (*Ibid*, § 12.)

**180.** Any joint-stock insurance company organized under the provisions of this act, may, at a meeting called for the purpose, increase the amount of its capital stock and the number of shares therein, and within thirty days after the payment or collection of the last installment of such increase, shall present to the insurance commissioner a certificate setting forth the amount of such increase, and the fact of such payment, signed and sworn to by the president, secretary and a majority of the directors of such corporation. The Insurance Commissioner shall examine the certificate and ascertain the character of the investments of such increase; and if the same conforms to law, shall indorse his approval thereof, and such certificate shall then be filed with the Secretary of the commonwealth, and thereupon the company shall be authorized to transact business upon the capital so increased, and the Insurance Commissioner shall issue his certificate to that effect; and any mutual insurance company with a guaranty capital may, within the limits authorized by this act, increase its capital in the same manner as a joint-stock insurance company. (*Ibid*, § 13.)

**181.** Whenever any joint-stock insurance company organized under the provisions of chapter three hundred and seventy-five of the acts of the year eighteen hundred and seventy-two, shall have increased its capital stock in the manner provided by section thirteen of said act, to the sum of three hundred thousand dollars or more, such company shall be authorized to insure against loss or damage by tempest or by the perils of the sea, and other perils usually insured against by marine insurance companies, including risks of inland navigation and transportation; and the insurance commissioner shall issue his certificate to that effect. (*Laws of 1873, chap. 182, § 1.*)

**182.** The fees to be paid for filing and recording the certificates required by sections nine and thirteen to be filed with the Secretary of the commonwealth, shall be as follows:—

For the certificate required by section nine, twenty-five dollars.

For the certificate required by section thirteen, five dollars. (*Laws of 1872, 375, § 14.*)

**183.** Corporations organized under the provisions of this act may hold real estate for the purposes of their business to an amount not exceeding twenty-five per centum of their cash assets. (*Ibid*, § 15.)

**184.** No insurance corporation or association of any other State or country shall be hereafter admitted to do business in this State, unless it has at least the amount of unimpaired capital stock or funds required of like corporations or associations hereafter organized in this State, located in the city of Boston; and the provisions of this section, relating to capital stock or funds, shall be held applicable to all insurance corporations or associations of any other State or country doing business in this State after the first day of January, eighteen hundred and seventy four. (*Ibid*, § 16.)

**185.** No joint-stock insurance company organized under the laws of this commonwealth, and doing the business of insurance under such organization, shall declare cash dividends exceeding in amount six per centum semi-annually on their capital stock; but any such company may issue *pro rata* to its stockholders certificates of such portion of its profits and income as the directors may from time to time determine, not including therein any portion of the premium money of risks not terminated, and after providing for all expenses, losses and liabilities then incurred; and the capital stock of such company shall be increased by the amount of the certificates of stock so issued; and whenever any increase of capital shall be made by an insurance company under the provisions of this act, a certificate thereof shall be filed with the Insurance Commissioner, whose duty it shall be to certify to the amount of the capital stock of the company so increased in like manner as by law is provided in case of the organization of joint-stock insurance companies. (*Ibid*, § 17.)

**186.** The Mayor and Aldermen of the several cities and the Selectmen of towns having more than four thousand inhabitants, shall before the first day of October, in the year eighteen hundred and seventy-three, divide their respective cities and towns into fire insurance districts, and immediately thereafter file plans and specifications thereof with the Insurance Commissioner, and the same shall be subject to his approval; and if he disapproves the same, the Mayor and Aldermen or Selectmen shall forthwith re-district such city or town in conformity to his requirement. And no company or association transacting the business of fire insurance in this commonwealth shall after said first day of October take or have at risk on property other than dwelling-houses, farm buildings and their contents in any town or such fire insurance district of a city or town therein, an amount exceeding its net assets available for the payment of losses in Massachusetts; and in computing the assets of such company or association insuring property upon the mutual principle, its premium notes shall be included. When from any cause the net assets, as aforesaid, of any such company or association shall be reduced to a sum less than the amount taken or held at risk in any town, or any such fire insurance district as provided in this section, such company or association shall forthwith either cancel and return to the holder the unearned portion of the premium upon policies upon property in such territory to an amount equal to the difference between the net assets and the amount taken or held at risk, as aforesaid, or effect reinsurance upon such property for a like sum; and

no such cancellation shall take place except after notice to the holder of the policy. Every such company or association shall annually, on or before the fifteenth day of January, return to the Insurance Commissioner a sworn statement of the amount taken or held at risk in each town or fire insurance district of a city in this commonwealth, on the thirty-first day of December next preceding. The Insurance Commissioner may, whenever he deems expedient, require of said companies or associations such a statement, or any part thereof; he may also require such other information, and adopt such rules and regulations as he may deem proper and necessary to procure reliable information upon this subject. For every policy issued in violation of the provisions of this section by an insurance company incorporated under the laws of this commonwealth, the president and secretary thereof shall, severally, upon conviction, be punished by a fine of fifty dollars. Any agent of a company or association not incorporated under the laws of this commonwealth, but duly authorized to transact business therein, shall, upon conviction, be punished by a fine of fifty dollars for each policy issued in violation of the provisions of this section, and upon a second conviction, his certificate of agency or license shall be revoked by the Insurance Commissioner. (*Ibid*, § 18.)

**187.** Any existing mutual fire insurance company, at a meeting specially called for that purpose, may, by a major vote of the policy-holders present and voting thereon, acquire a guaranty capital, as herein before provided for mutual fire insurance companies with a guaranty capital; and within thirty days after the payment or collection of the last installment of the subscription to such guaranty capital, shall present to the Insurance Commissioner a certificate setting forth the fact of such vote and of such payment, signed and sworn to by the president, secretary, and a majority of the directors of such company. The Insurance Commissioner shall examine the certificate and ascertain the character of the investments of said capital, and if the same conforms to law, shall indorse his approval thereof, and such certificate shall then be filed with the Secretary of the Commonwealth, and thereupon such company shall be authorized and required to transact business as a mutual fire insurance company with a guaranty capital under this act, and the Insurance Commissioner shall issue his certificate to that effect. (*Ibid*, § 19.)

**188.** If any corporation organized under this act does not commence to issue policies within one year after the date of the certificate of its organization, its corporate powers and existence shall cease. (*Ibid*, § 20.)

**189.** The provisions of this act, and the franchises, rights, powers, privileges, duties, and liabilities of insurance companies organized under this or any other general act, may be altered, amended, or repealed, and the legislature may annul or dissolve any such corporation. (*Ibid*, § 21.)

#### PLATE GLASS INSURANCE COMPANIES.

**190.** Any ten or more persons, residents of this commonwealth, who shall have associated themselves together by an agreement in writing, as set forth in section two, chapter three hundred and seventy-five of the acts of the year one thousand eight hundred

and seventy-two, with the intention to constitute a corporation for the purpose of transacting the business of insurance on plate-glass against loss or damage by breakage, local, or in transit, shall become a corporation upon complying with the provisions of sections five to nine, inclusive, of chapter three hundred and seventy-five of the acts of the year eighteen hundred and seventy-two, and shall remain a corporation, with the powers and privileges, and subject to the duties, liabilities, and restrictions set forth in the general laws which are or may be in force relating to insurance companies, so far as the same are applicable to this class of insurance. (*Laws of 1873, chap. 167, § 1.*)

**191.** The capital stock of any such company shall not be less than fifty thousand dollars, and no policy shall be issued until the whole amount of its capital has been paid in in cash. (*Ibid, § 2.*)

**192.** Foreign corporations insuring plate-glass, as described in section one of this act, and doing business in this State, and any agent or agents of such corporations, who may aid in receiving or procuring applications for insurance on plate-glass, or who may assist in any manner in transacting the business aforesaid, shall be entitled respectively to the powers and privileges, and shall be subject to the duties, liabilities, and restrictions set forth in the laws regulating the business of fire insurance by foreign corporations, and by the agents of such corporations, so far as such laws are applicable to this class of insurance; except that such corporations shall not be required to possess a larger amount of actual capital than is required by the second section of this act for companies in this commonwealth. (*Ibid, § 3.*)

### LIFE INSURANCE COMPANIES.

**193.** Before any mutual life insurance company goes into operation, a guaranty capital of one hundred thousand dollars shall be paid in money and invested as required by sections eighty-eight, eighty-nine and ninety. (*General Statutes, 58, § 60.*)

**194.** The subscribers or holders of guaranty stock in a mutual life insurance company shall choose the first board of directors; at all subsequent elections they shall choose one-half of the directors until the redemption of the guaranty stock, when the insured shall choose the directors. (*Ibid, § 60.*)

**195.** The stockholders shall be entitled to such annual dividends not exceeding eight per cent., as are agreed upon at the time of subscribing the capital, if the net surplus over a requisite reservation for liabilities and contingencies is sufficient to pay the same; and if less than the sum originally agreed on, it shall be made equal to it when the profits of the company are sufficient. (*Ibid, § 60, as amended by laws of 1870, chap. 349, § 6.*)

**196.** One-quarter of the estimated surplus fund above a sufficient fund to provide for risks, losses, expenses, and dividends, shall be reserved to be appropriated to the redemption of the guaranty stock; and after the expiration of ten years from the organization, when the amount reserved is sufficient and the insured so vote, the guaranty stock may be redeemed. (*Ibid, § 60.*)

**197.** At the expiration of every five years, the residue of the estimated surplus fund may be divided among the assured in proportion to the amount of premiums paid by them respectively on



account of the risk on their policies for any part or the whole of the preceding five years; *Provided*, That any policy on which the premium is payable otherwise than by equal annual payments, shall not be entitled to a larger distribution than if the premium had been so paid. (*General Statutes*, 58, § 60.)

**198.** Life insurance companies which do business upon the principle of mutual insurance, or the members of which are entitled to share in the surplus funds thereof, may make distribution of such surplus as they have accumulated, annually, or once in two, three, four, or five years, as the directors thereof from time to time determine. In determining the amount of the surplus to be distributed, there shall be reserved an amount not less than the aggregate net value of all the outstanding policies, said value being computed by the "Combined Experience" or "Actuaries'" rate of mortality, with interest at four per cent. (*Laws of 1866*, 33, §§ 1, 2.)

**199.** Such surplus fund may be distributed among the members of such companies in proportion to the sums of money which each member has contributed to the entire surplus funds to be distributed among all the members, and including in such contribution a just and equitable allowance for interest. Policies which have become payable before the time when such distribution is made, and after the date of the last previous distribution of surplus, may share in the same equitably and proportionally. (*Ibid*, §§ 3, 4.)

**200.** A policy of insurance on the life of any person, expressed to be for the benefit of any married woman, whether procured by herself, her husband, or any other person, shall inure to her separate use and benefit and that of her children, independently of her husband or his creditors, or the person effecting the same or his creditors. A trustee may be appointed by the party obtaining the policy, or if no such appointment is made, then by the judge of the probate court for the county in which the party for whose benefit said policy is made resides, to hold the interest of the married woman in such policy or the proceeds thereof. (*General Statutes*, 58, § 62.)

**201.** A policy of insurance on the life of any person, duly assigned, transferred, or made payable to any married woman, or to any person in trust for her or for her benefit, whether such transfer be made by her husband or other person, shall inure to her separate use and benefit, and that of her children, independently of her husband or his creditors, or of the person effecting or transferring the same or his creditors; *Provided, however*, That if the premium on such policy is paid by any person with intent to defraud his creditors, an amount equal to the premium so paid, with interest thereon, shall inure to the benefit of said creditors, subject, however, to the statute of limitations. (*Laws of 1864*, 197.)

**202.** When a policy is effected by any person on his own life or on the life of another, expressed to be for the benefit of such other, or his representatives or a third person, the person for whose benefit it was made shall be entitled thereto against the creditors and the representatives of the person effecting the same. If the premium is paid by any person with intent to defraud his creditors, an amount equal to the premium so paid, with interest thereon, shall inure to their benefit. (*General Statutes*, 58, § 62.)

**203.** No policy of insurance on life, issued on and after the tenth day of May, in the year eighteen hundred and sixty-one, by any company chartered by the authority of this commonwealth,

shall be forfeited or become void by the non-payment of premium thereon any further than regards the right of the party insured therein to have it continued in force beyond a certain period, to be determined as follows, to wit: The net value of the policy, when the premium becomes due and is not paid, shall be ascertained according to the "Combined Experience" or "Actuaries'" rate of mortality, with interest at four per centum per annum. After deducting from such net value any indebtedness to the company or notes held by the company against the insured, which notes if given for premium shall then be canceled, four-fifths of what remains shall be considered as a net single premium of temporary insurance, and the term for which it will insure shall be determined according to the age of the party at the time of the lapse of premium, and the assumptions of mortality and interest aforesaid. (*Laws of 1861, 186, § 1.*)

**201.** If the death of the party occur within the term of temporary insurance covered by the value of the policy, as determined in the previous section, and if no condition of the insurance other than the payment of premium has been violated by the insured, the company shall be bound to pay the amount of the policy the same as if there had been no lapse of premium, anything in the policy to the contrary notwithstanding; *Provided, however,* That notice of the claim and proof of the death shall be submitted to the company within ninety days after the decease; and *Provided, also,* That the company shall have the right to deduct from the amount insured in the policy the amount of six per cent. per annum of the premiums that had been forborne at the time of the death. (*Ibid, § 2.*)

**205.** All corporations, associations, partnerships, or individuals doing business in this State under any charter, compact, agreement, or statute of this or any other State, involving an insurance, guaranty, contract, or pledge for the payment of annuities or endowments, or for the payment of moneys to families, or representatives of policy or certificate-holders, or members, shall be considered and deemed to be life insurance companies within the meaning of the laws relating to life insurance within this State, and shall not make any such insurance, guaranty, contract, or pledge therein, or to or with any citizen or resident of this State, which shall not distinctly state therein the amount of such life benefits, the manner of payment, the period of the continuance thereof, and the amount of the annual, semi-annual, or quarterly premium, or by which the payment of the life benefit assured shall be contingent upon the payment of assessments made upon surviving members, nor except in accordance with and under the conditions and restrictions of the statutes now or hereafter regulating the business of life insurance; *Provided,* That nothing in this section shall be held to conflict with the provisions of chapter one hundred and eighty-six of the acts of eighteen hundred and sixty-one. (*Laws of 1872, chap. 325, § 7.*)

**206.** Every company empowered to make insurance on lives upon land shall be subject to the same obligations for the payment of a certain share of the profits to the Massachusetts General Hospital as are imposed on the Massachusetts Hospital Life Insurance Company. (*Laws of 1823, 51, § 2; General Statutes, 58, § 61.*)

**207.** No life insurance company shall issue policies insuring fire or marine risks. (*General Statutes, 58, § 65.*)

No life insurance company organized or incorporated under the laws of this Commonwealth shall be permitted to reinsure its risk, except by permission of the Insurance Commissioner; but

nothing in this act shall be construed to prevent any such life insurance company from reinsuring a fractional part, not exceeding one-half of any individual risk. (*Laws of 1874, chap. 109, § 1.*)

## INSURANCE CORPORATIONS OF OTHER STATES AND FOREIGN COUNTRIES.

### CONDITIONS OF ADMISSION TO BUSINESS IN THIS STATE.

**208.** No insurance company not incorporated by the Legislature of this Commonwealth, and having a specific capital, shall by its agent in this State insure property therein or contract for insurance with any residents in this State, unless its capital stock amounts to one hundred thousand dollars, all of which sum has been paid in cash and invested, exclusive of stockholders' obligations of any description not secured as required in section eighty-nine, and the debts of the company; nor unless the company is restricted by its charter or otherwise from incurring any greater hazard in one risk than one-tenth of its unimpaired capital; nor unless the company has complied with the laws of this State. (*General Statutes, 58, § 66.*)

**209.** Mutual fire insurance companies, incorporated by or under the law of any State of the United States, other than the Commonwealth of Massachusetts, and by such law authorized to issue policies of insurance upon both the cash and mutual plans, are and shall be authorized to issue policies of insurance in this commonwealth either for premiums payable wholly in cash or for premiums payable partly in cash and partly by premium notes; *Provided*, That no such company shall be permitted to transact business in this commonwealth until it shall have satisfied the Insurance Commissioner that it is possessed of a reinsurance fund, over and above all liabilities, equal to fifty per centum of all cash premiums on cash policies in force, and that it has premium notes liable to assessment amounting to the sum of at least two millions of dollars, which notes may, by law, be or become a lien upon the property insured and liable to assessment for the payment of losses and expenses for their full amount, and shall keep a cash deposit in this Commonwealth of not less than two hundred thousand dollars for the security of policy-holders; and *Provided, further*, That no such mutual fire insurance company shall insure in any fire insurance district in the Commonwealth of Massachusetts to an amount exceeding said cash deposits and its net cash assets. (*Laws of 1875, chap. 42, § 1.*)

**210.** Before any company not incorporated as aforesaid, whether doing business on the stock or mutual plan, transacts by its agents any business in this State, it shall satisfy the Insurance Commissioner that it has the amount of funds required by the laws of this commonwealth and has complied with all other provisions of the same. (*General Statutes, 58, § 67.*)

### GENERAL AGENT AND ATTORNEY.

**211.** Every such company shall, before doing business in this State, appoint in writing a citizen thereof, resident therein, a general agent upon whom all lawful processes against the company may be

served with like effect as if the company existed in this State; and said writing or power of attorney shall stipulate and agree on the part of the company making the same, that any lawful process against said company which is served on said general agent, shall be of the same legal force and validity as if served on said company. A copy of the writing, duly certified and authenticated, shall be filed in the office of the Insurance Commissioner, and copies certified by him shall be sufficient evidence. This agency shall be continued while any liability remains outstanding against the company in this State, and the power shall not be revoked until the same power is given to another, and a copy filed as aforesaid. Service upon such agent shall be deemed sufficient service upon the principal. (*Ibid*, 58, § 68.)

**212.** In addition to the stipulations and agreements now required by section sixty-eight of chapter fifty-eight of the General Statutes, relating to the appointment of general agents or attorneys to accept service of process against insurance companies not incorporated by the legislature of this commonwealth and doing business therein, it is hereby provided that said appointment shall stipulate and agree that the general agent or attorney of any such life insurance company withdrawing from the State or ceasing to do business therein, shall be authorized to accept payment of premiums thereafter falling due on policies remaining in force and held by its citizens in such company at the time of its withdrawal or cessation of business as aforesaid; and in case of the removal of said general agent or attorney from the commonwealth, and the neglect of the company for thirty days to appoint a successor, the Insurance Commissioner shall have authority to make such appointment, which, with the payment of premiums as herein provided, shall have the same legal force and validity as if such company had continued its business in the commonwealth. (*Laws of 1872, chap. 325, § 4.*)

**213.** The general agent shall, before any insurance is made by such company, give a bond to the Treasurer of the commonwealth, with one or more sureties, to be approved by him, in the sum of two thousand dollars, with condition that he will accept service of all lawful processes against the company in the manner hereinbefore provided. (*General Statutes, 58, § 69.*)

**214.** The general agent of every such company shall, before any insurance is made, deposit with the Insurance Commissioner a copy of the charter of the company, and a statement signed and sworn to by the president and secretary, in the form prescribed or authorized for the annual statement adapted to the business done by such company. (*Ibid*, § 71.)

**215.** Any such company which neglects to appoint a general agent agreeably to the provisions of section one hundred and sixty-three, shall not recover any premium or assessment made by it on any contract of insurance with a citizen of this State until such provisions are complied with. (*Ibid*, § 72.)

#### AGENTS.

**216.** Whoever solicits insurance on behalf of any insurance company not chartered by and not established within this commonwealth, or transmits for any person other than himself an application for insurance, or a policy of insurance to or from such company, or advertises that he will receive or transmit the same, shall



be held to be an agent of such company, to all intents and purposes, and subject to all the duties, requisitions, liabilities, and penalties set forth in the laws of this commonwealth relating to insurance companies not incorporated by the Legislature thereof. (*Laws of 1864*, 114, § 1.)

**217.** Every agent of an insurance company not incorporated by the legislature of this commonwealth, and doing business therein, excepting agents of companies included in the provisions of the preceding section, shall, before any business is done by him for said company, give a bond to the Treasurer, with one or more sureties to be approved by the Insurance Commissioner, in the sum of one thousand dollars, with condition that he will, on or before the fifteenth day of November in each year, make return on oath to the Treasurer of the amounts insured by him, the premiums received, and assessments collected, during the year ending on the thirty-first day of the October preceding, and at the same time pay to the Treasurer the taxes provided by law. It shall be the duty of the said Commissioner, upon his approval of any such bond to indorse a statement of that fact upon the bond, and to forthwith transfer the same to the Treasurer of the commonwealth. (*General Statutes*, 58, § 69; *Laws of 1875*, 79, § 1.)

**218.** No officer, agent, or sub-agent of any insurance company not incorporated in this commonwealth, shall act or aid in any manner in transacting the business of insurance of or with such company, or placing risks or effecting insurance therein, without first procuring from the Insurance Commissioner a certificate of authority so to do, for each company for which he proposes to act, which shall state in substance that such company is duly authorized to do business in this State under the laws thereof, and that such agent or other person has duly complied with the laws relating to the agents of such companies. The Commissioner, upon being satisfied of the facts to be stated therein, shall grant such certificate, which shall continue in force until the first day of April next after the date thereof, unless sooner revoked by the Commissioner for non-compliance with the laws aforesaid, and shall be renewed on said day, and annually thereafter, so long as the company and its agents continue to comply with said laws. For such certificate, so granted, and for each renewal thereof, the company named therein shall pay into the treasury the sum of two dollars. Whoever violates the provisions of this section shall be punished by a fine not exceeding five hundred dollars for each offense. (*Laws of 1867*, 267, § 5.)

**219.** Every person acting for an insurance company not incorporated in this State shall exhibit in conspicuous letters on the sign designating his place of business, the name of the State under whose authority the company he represents has been incorporated. And said company and agent shall also have printed in large type the name of such State and the kind of office, whether chartered as a mutual or stock company upon all policies issued to citizens of this State, on all cards, placards, and pamphlets, and in all advertisements published, issued or circulated in this State, by it or him, relating to the business of such company. (*General Statutes*, 58, § 73.)

**220.** No person shall act as agent of an insurance company not incorporated in this State until he has complied with all the requirements of the laws of this State relating to such companies and their agents; and every person so acting without such compliance,

or who knowingly procures payment or any obligation for the payment of any premium for insurance, by fraudulent representations, shall be punished by fine not exceeding one thousand dollars for each offense. (*Ibid*, § 74.)

**221.** Every agent of such insurance company neglecting to make the returns required by law, shall forfeit twenty-five dollars for each neglect, to be recovered by the Treasurer of the commonwealth. Every agent so neglecting shall be immediately notified thereof by the Treasurer; and if he continues said neglect for ten days after such notice is deposited in the post-office, he shall forfeit five hundred dollars for every such neglect, to be recovered by the Treasurer; *Provided*, That no agent shall be held liable if it is made to appear to the satisfaction of the Treasurer that the returns were duly made and deposited by said agent in the post-office, properly directed to the Insurance Commissioner, and that there was no neglect on his part. (*Ibid*, § 76.)

**222.** If insurance is made by such insurance company without complying with the requisitions of the laws of this State, the contract shall be valid; but the agent making the insurance shall be liable to a fine not exceeding one thousand dollars for each offense. (*Ibid*, § 72.)

**223.** The agent of any such insurance company which does not comply with the laws of this commonwealth as to the appointment of a general agent, the filing of said appointment, and the continuance of such agency, shall be personally liable on all contracts of insurance made by or through him, directly or indirectly, for and in behalf of any such company. (*Laws of 1864*, 114, § 3.)

**224.** The agent of any such insurance company who neglects to pay the taxes imposed on such company by the laws of this commonwealth, shall be personally liable therefor, and the same may be recovered of him in an action of tort in the name of the commonwealth. (*Ibid*, § 3.)

#### ANNUAL STATEMENTS, TAXES, FEES, ETC.

**225.** The general agent of every insurance company chartered or organized in any other State of the United States, and doing business in this commonwealth, shall, on or before the fifteenth day of January in each year, transmit to the Insurance Commissioner, and file in his office, a statement of its business, standing and affairs in the form prescribed or authorized by law and adapted to the business done by such company, signed and sworn to by the president and secretary, and made out for the year ending on the preceding thirty-first day of December. (*General Statutes*, 58, §§ 25, 71; *Laws of 1867*, 267, §§ 2, 3.)

**226.** Insurance companies chartered beyond the limits of the United States and doing business in this State, shall, in the month of November in each year, return to the Insurance Commissioner, and file in his office, a statement of their standing, made out at the home office for the preceding calendar year, agreeably to the form required of companies doing a similar business in this State; which statement shall be verified and sworn to before some consul or vice-consul of the United States, by two or more of the principal officers of such insurance companies. Supplementary annual statements of the business and condition of their American branches shall also be filed within the time, and made out for the period required of com-

panies of the United States. (*Ibid*, § 75; *Laws of 1867*, 267, §§ 2, 3.)

**227.** Chapter one hundred and sixty-five of the acts of the present year, entitled "An act explanatory of an act to levy taxes on certain insurance companies," shall not be construed to repeal or modify the provision of the eighteenth section of chapter two hundred and eighty-three of the acts of the year eighteen hundred and sixty-five, which exempts insurance companies from paying a tax "upon premiums received for insurance in other States, which are subject to a like tax in the State where received." (*Laws of 1868*, 283.)

**228.** Every insurance company not incorporated in this commonwealth, applying for admission to do business therein, shall pay into the treasury, for filing copy of its charter or deed of settlement, the sum of thirty dollars; for filing statement preliminary to admission, and for filing each annual statement after admission, the sum of twenty dollars. (*Laws of 1867*, 267, § 4.)

**229.** It shall not be lawful for any insurance company or association, created by or organized under the laws of any foreign government, other than the States of this Union, or for any partnership, association, firm or individual of such foreign government, or for any agent or agents of such foreign company, association, partnership, firm or individual, to make contracts of insurance, or expose such company, association, partnership, firm or individual to loss in this State, in any one risk or hazard to an amount exceeding ten per cent. of the value of the securities deposited by such company, association, partnership, firm or individual with the several insurance or other departments of the States of this Union, and ten per cent. of the net assets in the hands of trustees resident in and citizens of any of the United States, subject at all times to the approval of the Insurance Commissioner of this State, for the general benefit and security of all policy-holders residing in the United States, which shall be immediately available for the payment of losses in this State. Nor shall it be lawful for any such foreign or other insurance company, association, partnership, firm or individual, directly or indirectly, to contract for or effect any reinsurance of any risk on property in this State taken by such company, association, partnership, firm or individual, with any insurance company, association, partnership, firm or individual not authorized to transact the business of insurance in this State in accordance with the laws thereof. (*Laws of 1870*, 349, § 1.)

**230.** All foreign insurance companies, associations, partnerships, firms or individuals, whether incorporated or not, transacting the business of fire, marine or life insurance, or any other kind of insurance in this State, shall make full annual statements of their condition and affairs to the insurance department, in the same manner and in the same form, without erasure or addition (except necessary explanation), and subject to the same liabilities as similar companies or associations organized under the laws of this State. (*Ibid*, 349, § 2.)

**231.** In case of neglect or refusal to make such annual statements, as provided in the preceding section, all persons acting in this State as agents or otherwise, in transacting the business of insurance for said companies, associations, partnerships, firms or individuals, shall be subject to the same penalties provided by law in case of the failure of any insurance company or association, organized

under the laws of this State, to make an annual statement as now required by law. (*Ibid*, § 3.)

**232.** Any violation of the provisions of this act shall subject the party guilty of such violation to a penalty of five hundred dollars for each violation, to be sued for and recovered in the manner provided for the prosecution and recovery of penalties prescribed by the insurance laws of this State. (*Ibid*, § 4.)

#### MISCELLANEOUS.

**233.** Whenever, after setting aside a sum equal to the premiums for the unexpired term on existing risks, the cash assets of any fire insurance company not incorporated by the legislature of this commonwealth and having a specific capital, do not amount to more than three-fourths of its original capital, the company shall, by assessing the stock for the difference, repair its capital to the original amount. No such company shall be permitted to do business in this commonwealth unless it complies with the provisions of this section. (*Laws of 1863*, 249, §§ 7, 10.)

**234.** Insurance companies created by any other State, having property in this State, shall be liable to be sued and their property shall be subject to attachment in like manner as residents of other States having property in this State are liable to be sued and their property to be attached. (*General Statutes*, 68, § 15.)

**235.** The provisions of all general laws relating to insurance companies chartered, incorporated, or associated in, or under, the laws of any foreign country, are hereby extended to all companies, associations and individuals formed or associated in foreign countries and doing an insurance business in this State, whether incorporated or not. (*Laws of 1867*, 267, § 1.)

**236.** The provisions of all general laws which are or may be in force relating to insurance companies incorporated in other States of the United States, are hereby extended to all companies, associations and individuals formed or associated in such other States, and doing an insurance business in this State, whether incorporated or not. (*Laws of 1869*, 317, § 1.)

#### GENERAL PROVISIONS RELATING TO INSURANCE COMPANIES DOING BUSINESS IN THE COMMONWEALTH, WHEREVER CHARTERED OR ORGANIZED.

##### AGENTS.

**237.** Whoever solicits insurance on behalf of any fire or life insurance company [whether] chartered in this commonwealth [or elsewhere],\* or transmits for any person other than himself, an application for insurance or a policy of insurance, to or from said company, or advertises that he will receive or transmit the same, shall be held to be an agent of such company to all intents and purposes, and within the meaning of the following section, unless it can be shown that he receives no commission, or other compensa-

\* This section, so far as it relates to agents of companies not incorporated in this State, is superseded by section **216**, which is a later enactment. The receipt of compensation is not material upon the question of agency in such companies.



tion or consideration, for such service from said company. (*Laws of 1861, 170.*)

**238.** An agent making insurance in violation of any law of this State regulating insurance companies, shall forfeit for each offense a sum not exceeding one thousand dollars. (*General Statutes, p. 58, § 77.*)

**239.** When a person is convicted of violating any law regulating the negotiation of contracts of insurance, or the placing of insurance risks in companies not authorized to transact the business of insurance in this commonwealth, and is sentenced to pay a fine therefor, the person or persons upon whose complaint such conviction is had, shall receive one-half of the fine so paid; *Provided*, That nothing contained in this section shall apply to any case in which the Insurance Commissioner or his deputy is the complainant. (*Laws of 1873, chap. 142, § 1.*)

#### TAXES AND FEES.

**240.** Every corporation or association of persons neglecting to pay the taxes imposed by sections forty-three, forty-five, one hundred and seventy-nine, and one hundred and eighty, as herein provided, shall be liable for the same with costs and interest in an action of contract, in the name of the commonwealth, at the suit of the Treasurer and shall be further liable on application of the Treasurer of the commonwealth therefor to any one of the justices of the supreme judicial court, to injunction restraining said corporation or association and the agents thereof, from the further prosecution of its business until all taxes due as aforesaid with costs and interest are fully paid. (*Laws of 1862, 224, § 11.*)

**241.** Every insurance company doing business in this commonwealth shall annually pay into the treasury of the same, by the way of compensation for the valuation of its policies, one cent on every thousand dollars insured by it on lives. (*General Statutes, 58, § 64.*)

**242.** For each copy of a paper filed in the office of the Insurance Commissioner there shall be paid at the rate of twelve cents per page and for certifying the same the sum of one dollar. Said fees shall be collected by the Commissioner and paid into the treasury. (*Laws of 1867, 267, § 6.*)

**243.** Every fire, marine, fire and marine, and other insurance company, incorporated under the laws of this commonwealth, except life insurance companies, and except such companies as are subject to the provisions of chapter two hundred and eighty-three of the acts of the year eighteen hundred and sixty-five, shall, as hereinafter provided, annually pay a tax or excise of one per centum on all premiums received during the year for insurance, whether in cash or in notes absolutely payable, and one per centum on all assessments made upon policy-holders by such company; *Provided, however*, That in the assessment of such tax, premiums received in other States where they are subject to a like tax, shall not be included. (*Laws of 1873, chap. 141, § 1.*)

**244.** Every fire, marine, fire and marine, and other insurance company, corporation, association, or partnership, which is incorporated or associated by authority of any other State of the United States, shall, as hereinafter provided, annually pay a tax or excise upon all premiums charged or received on contracts made in this

commonwealth for the insurance of property or interests therein, or received or collected by agents in this commonwealth, at the rate of two per centum, and at such greater rate, if any, as shall be equal to the highest rate imposed during the year by the laws of such other State upon insurance companies incorporated by authority of this commonwealth, or upon their agents, when doing business in such State. (*Ibid*, § 2.)

**215.** Every life insurance company, corporation, association or partnership, incorporated or associated by authority of any other State of the United States, by the laws of which State a tax is imposed upon the premium receipts of life insurance companies chartered by this commonwealth doing business in such State, or upon their agents, shall annually, so long as such laws continue in force, pay a tax or excise upon all premiums charged or received upon contracts made in this commonwealth, at a rate equal to the highest rate imposed during the year upon life insurance companies chartered by this commonwealth, or their agents, doing business in such other State. (*Ibid*, § 3.)

**216.** Every fire, marine, fire and marine, and other insurance company, corporation, association or partnership, incorporated or associated under the laws of any government or State other than one of the United States, shall, as hereinafter provided, annually pay a tax of four per centum upon all premiums charged or received on contracts made in this commonwealth for insurance, or received or collected by agents in this commonwealth; *Provided, however*, That whenever it is made to appear to the satisfaction of the Tax Commissioner that any such company, corporation, association, or partnership, has, during the whole term for which the tax is to be assessed, kept deposited with the insurance or other departments of any State of the United States, or in the hands of trustees, resident in and citizens of such States, for the general benefit and security of all policy-holders residing in the United States, securities approved by the Insurance Commissioner, of the value of two hundred thousand dollars, which have been at all times available for the payment of losses in this commonwealth, the tax upon the premiums of such company, under this section, shall be assessed at the rate of two per centum. The certificate of the Insurance Commissioner may be received by the Tax Commissioner as sufficient evidence that such securities have been so deposited. (*Ibid*, § 4.)

**217.** In determining the amount of tax due under the preceding sections of this act, there shall be deducted in each case, from the full amount of premiums and assessments, unused balances on notes taken for premiums on open policies, all sums paid for return premiums on canceled policies, and all sums actually paid to other insurance companies incorporated under the laws of this commonwealth, or to the agents of foreign companies, for reinsurance on risks, for which a tax on the premium would be due, had no reinsurance been effected; *Provided*, That nothing in this section shall be construed as to allow dividends in scrip or otherwise, in stock, mutual or mixed companies, to be considered return premiums. (*Ibid*, § 5.)

**218.** Like fines, fees, penalties, deposits, obligations and prohibitions (not being less in amount than those required by other provisions of law of this commonwealth in similar cases), are imposed upon and required of all insurance companies, corporations, associations, and partnerships, incorporated or associated by

authority of any other State of the United States doing insurance business in this State, and their agents doing business for or with them, as are or shall hereafter be, by law of such State, imposed upon companies incorporated by this State, or upon their agents, doing insurance business in such State. Compliance with the requirements of the provisions of this section as to deposits, obligations and prohibitions, may be enforced, and all such fines, fees and penalties may be collected by information brought in the supreme judicial court by the Attorney-General at the relation of the Insurance Commissioner, and upon such information, and upon a request therefor, the court shall issue an injunction restraining the further prosecution of the business of such company, corporation, association, partnership, or agent, named therein, until such requirements are complied with, and until such fines, fees, and penalties are paid, with costs and interest. (*Ibid*, § 6.)

**249.** Every company, which, by the provisions of the first section of this act, is required to pay a tax, shall, between the first and fifteenth days of November, in each year, cause to be made to the Tax Commissioner a return, signed and sworn to by its secretary, or other officer, cognizant of the facts, which shall set forth the amount insured by said company, the premiums received and assessments collected during the year ending with the thirty-first day of October the next preceding. Every agent of any company, corporation, association or partnership, which is incorporated or associated by authority of any government other than this commonwealth, doing or authorized to do insurance business in this commonwealth, shall, between the first and fifteenth days of November, in each year, make to the Tax Commissioner a return, signed and sworn to by him containing the names of every such company, corporation, association or partnership, for which he has acted as agent during any part of the year ending with the thirty-first day of October then next preceding, with the amount insured by him, the premiums received, and assessments collected by him, or by his authority, for each such company, corporation, association or partnership, during such year; but such agents only of life insurance companies are required to make return as are not accountable to any other agent in this commonwealth for premiums received.

Such returns shall contain a statement of the whole amount of premiums charged or received by, or in behalf of, each company, corporation, association or partnership, either in cash or notes absolutely payable, and the amount claimed as a deduction therefrom, under any of the provisions of this act, specifying the whole amount so claimed, and also the classes of deductions and amount of each class. (*Ibid*, § 7.)

**250.** The Tax Commissioner shall, thereupon upon such statements, and on such other evidence as he may obtain, proceed to assess upon such companies, corporations, associations and partnerships, and their agents, the taxes prescribed by the provisions of this act, and shall forthwith, upon making such assessment, forward written, or printed notices to such companies, or their agents, in this commonwealth, stating the amounts so determined by him to be payable by each company, corporation, association, partnership or agent, as the case may be. Such taxes shall be paid to the Treasurer and Receiver-General on the tenth day of December next succeeding the time fixed in the preceding section for making the statement therein required.

The Tax Commissioner shall, on or before such tenth day of December, deliver to the Treasurer and Receiver-General a certificate setting forth the names of every such company, corporation, association, partnership and agent, upon whom such tax has then been assessed; and shall, in like manner, make certificate of any further assessments, if any, as may be made after that date. All such taxes, whether assessed before or after the tenth of December, shall bear interest from that date until they are paid, at the rate of twelve per centum per annum. (*Ibid*, § 8.)

**251.** Every company, corporation, association, partnership and agent, failing to make the return required by the provisions of this act, shall forfeit twenty-five dollars for such default; and continuing in such failure for the space of ten days after a written or printed notice thereof, authorized by the Tax Commissioner, has been deposited in the post-office, postage paid, and addressed to such company, corporation, association, partnership or agent, shall be subject to a further penalty of five hundred dollars; and in addition, the company, corporation, association or agent so failing, shall be liable, upon information by the Attorney-General, at the relation of the Tax Commissioner, to injunction, restraining it or him, as the case may be, from transacting the business of such company, corporation, association or partnership in this commonwealth, until such returns are made.

If any such return contains statements which are false, and are known, or which by the exercise of reasonable care might have been known to the agent making it, or to the officers making it, to be so, such agent or corporation shall be liable for the amount of tax thereby lost to the commonwealth, and, in addition, to a penalty of not less than five hundred or more than five thousand dollars.

Such penalties may be recovered by an action of tort, brought at the instance of the treasurer against the company, corporation, association, partnership or agent in default; and no such company, corporation, association, partnership or agent shall be liable to the money penalties imposed by this section, if it is made to appear that the return was duly made and deposited by said agent in the post-office, postage paid, and properly directed to the Tax Commissioner, and that there was no neglect on his part. (*Ibid*, § 9.)

**252.** Every insurance company incorporated by authority of this commonwealth, and every such company, corporation, association or partnership, incorporated or associated by authority of any other State or government, shall be liable for the full amount of all taxes so assessed upon the premiums or assessments received by such company, corporation, association or partnership, or by its agents; and each agent of any such company, corporation, association or partnership, incorporated or associated by authority of any State or government other than this commonwealth, shall also be liable for the amount assessed upon premiums and assessments received by him, which, with interest at the rate of twelve per centum per annum, may be recovered in an action of contract brought in the name of the commonwealth. Such corporation, company, association or partnership, shall be further liable, upon information by the Attorney-General at the relation of the Treasurer and Receiver-General, to injunction restraining said company, corporation, association or partnership, and the agents thereof, from the further prosecution of its business, until all taxes due as aforesaid, with costs and interest, are fully paid. Any return made or tax paid by an



agent shall be a discharge to that extent of the company, corporation, association or partnership, from its liability to make a return or pay a tax under the provisions of this. (*Ibid*, § 10.)

**253.** No person shall, as agent of any insurance company, corporation, association or partnership, not incorporated or associated under the laws of this commonwealth, make or procure to be made any insurance in this commonwealth, until he has given a bond to the Treasurer and Receiver-General of the commonwealth, with sufficient sureties, to be approved by said Treasurer, in the sum of two thousand dollars, with condition that he will make all the returns, and pay all taxes, fines and penalties, which, by the provisions of this act and of any other laws of this commonwealth, he is or shall hereafter be required to make and pay, according to the requirements of such laws. Any person making insurance, or causing or procuring insurance to be made, in violation of the provisions of this section, shall be liable to pay a fine of not exceeding one thousand dollars; *Provided, however*, as to agents in this commonwealth of life-insurance companies incorporated or associated by authority of any State or government other than this commonwealth, that such agent or agents only of such life insurance companies shall give the bond required by this section as are not accountable to any agent in this State for premiums received. (*Ibid*, § 11.)

**254.** The bonds which by section sixty-nine of chapter fifty-eight of the General Statutes and by section eleven of chapter one hundred and forty-one of the acts of the year eighteen hundred and seventy-three are required to be approved by the Treasurer and Receiver-General of the commonwealth, shall hereafter be approved by the Insurance Commissioner. It shall be the duty of said Commissioner upon his approval of any such bond to indorse a statement of that fact upon the bond and to forthwith transfer the same to the Treasurer of the commonwealth. (*Laws of 1875, chap. 79, § 1.*)

**255.** If at any time the Treasurer and Receiver-General shall become satisfied that any bond already filed with him under the provisions of this or any other law of this commonwealth, by any agent or general agent of any insurance company, corporation, association or partnership, has become insufficient as a security, whether from death, removal from the State, or pecuniary insufficiency of the sureties, he shall require such agent to file a new bond with another surety or sureties, with like conditions. The same penalties and prohibitions shall apply to any agent, general agent and company, corporation, association or partnership failing, for the space of ten days after notice, to file such new bond, as are or shall be provided by law, for failure or neglect to file the original bond. (*Ibid*, 141, § 12.)

**256.** The duties required by this act to be performed by the Tax Commissioner may be performed by his deputy, appointed under the provisions of chapter two hundred and eighty-three of the acts of the year eighteen hundred and sixty-five. (*Ibid*, § 13.)

**257.** All general laws relating to the duties, obligations, prohibitions and penalties appertaining to insurance companies incorporated by authority of this commonwealth, and all the laws defining the powers and duties of the Insurance Commissioner in relation thereto, shall, except as herein before provided, apply to any company corporation, association, partnership or individual, doing any kind of

insurance business in this Commonwealth, by whatever authority incorporated, formed, or associated. (*Ibid*, § 14.)

## ANNUAL STATEMENTS.

**258.** The form of annual statement for insurance companies with specific capitals, shall be as follows :

1. State the name of the company.
2. Where located.
3. When incorporated.
4. Amount of capital.
5. Amount of capital actually paid in.
6. Number of shares and par value of each.
7. Amount of fire risks outstanding.
8. Amount of marine risks outstanding.
9. Total amount of outstanding risks.
10. Amount of United States stock or treasury notes owned by the company ; state amount of each kind, and par value and market value of each.
11. Amount of State stocks ; state amount of each kind, and par value and market value of each.
12. Amount of bank stocks ; state amount of each kind, and par value and market value of each.
13. Amount of railroad stocks ; state amount of each kind, and par value and market value of each.
14. Amount of railroad bonds ; state amount of each kind, and par value and market value of each.
15. Cash value of real estate owned by the company.
16. Amount of cash on hand.
17. Amount of cash in hands of agents.
18. Amount loaned on mortgage of real estate.
19. Amount loaned on collateral.
20. Amount loaned without collateral.
21. Amount of all other investments.
22. Amount of premium notes on risks terminated.
23. Amount of borrowed money, specifying collaterals given for the same.
24. Amount of losses due and unpaid.
25. Amount of losses claimed and unpaid.
26. Amount of losses reported, upon which the liability of the company is not determined.
27. Amount of all other claims against the company.
28. Amount of cash received for premiums on fire risks.
29. Amount of cash received for premiums on marine risks.
30. Amount of notes received for premiums on fire risks.
31. Amount of notes received for premiums on marine risks.
32. Amount of cash received for interest.
33. Amount of income received from all other sources.
34. Amount of fire losses paid the last year.
35. Amount of marine losses paid last year.
36. Amount of dividends paid the last year.
37. Amount paid for expenses of office.
38. Amount of other expenditures.
39. Amount received in cash for fire risks not terminated.
40. Amount required to reinsure all outstanding risks.
41. Amount of premium notes on risks not terminated.

42. Amount of delinquent notes not charged to profit and loss.
43. Highest rate of interest received.
44. Highest rate of interest paid on money borrowed.
45. How many shares of the capital stock are pledged to the company.
46. Balance to credit of profit and loss account.
47. Balance to debit of profit and loss account.
48. How many shares of the capital stock are owned by the company, or not subscribed for.
49. What amount of the capital consists of the stockholders' notes. (*General Statutes, 58 A.*)
- 259.** The form for mutual marine, and mutual fire and marine insurance companies, shall be as follows:
  1. Name or title of the company.
  2. Where located.
  3. When incorporated.
  4. For what period.
  5. Amount invested in United States funded debt, with the amount of each kind owned; state par value and market value, per share.
  6. Amount of United States treasury notes owned; state par value and market value, per share.
  7. Amount invested in State stocks, with the amount of each kind owned; state per value and market value, per share.
  8. Number of shares owned in each bank which are not pledged; state par value and market value, per share.
  9. Number of shares owned in each railroad; amount invested in each, at cost on books; state per value and market value, per share.
  10. Amount received in railroad bonds, and amount of each kind, at cost on books; state par value and market value per share.
  11. Amount invested in real estate, as it stands on the books of the company.
  12. State specifically all other investments or property.
  13. Cash on hand.
  14. Cash in hands of agents.
  15. Amount loaned on mortgage of real estate.
  16. Amount loaned on notes secured by collaterals of personal property.
  17. Amount loaned on notes without collateral security.
  18. Amount of stock notes on hand not overdue.
  19. Amount of stock notes on hand that are past due.
  20. Amount of premium notes on risks terminated.
  21. Amount of premium notes on risks not terminated.
  22. Amount of delinquent premium notes not charged to profit and loss.
  23. Amount of scrip issued for profits which remains outstanding.
  24. Amount of debts due the company other than those before enumerated; state particularly their respective amounts and origin.
  25. Amount of marine risks not terminated.
  26. Amount of fire risks not terminated.
  27. Amount received in cash for fire risks not terminated.

28. State the highest rate of interest received.  
 29. Amount received for interest.  
 30. State the highest rate of interest paid for money borrowed.

31. Amount paid for interest.

32. State the amount borrowed which remains unpaid, and state particularly the collateral given for each loan.

33. Amount of fire losses paid the past year.

34. Amount of marine losses paid the past year.

35. Amount of losses ascertained and unpaid.

36. Amount of losses claimed other than those ascertained and unpaid.

37. Amount of expenses, taxes, and commissions, paid the past year. (*Ibid*, 58 B. 1860, 156, § 1.)

**260.** The form for mutual fire insurance companies shall be as follows. All companies having policies in separate classes, shall in their answers specify the respective amounts in each class:

1. Name of company.

2. Where located.

3. When incorporated.

4. Date of commencement of business.

5. Amount insured by existing policies.

6. Amount of premiums and deposits on same.

7. Amount of premiums on same received in cash.

8. Amount of United States and State stocks or notes; state par value and market value of each.

9. Amount of bank stocks, railroad stocks, and bonds; state number of shares in each bank and railroad company, and par value and market value of each.

10. Cost value of real estate owned by the company.

11. Amount loaned on mortgage of real estate.

12. Amount of other investments.

13. Cash on hand and in bank.

14. Cash in hands of agents.

15. Amount of assessments regarded good, due and not paid.

16. Amount of losses ascertained and unpaid.

17. Amount of other losses claimed.

18. Amount owed for borrowed money, and on what securities.

19. Amount owing for dividends on expired policies.

20. Amount and particulars of all other liabilities.

21. Estimated amount in cash required to reinsure all outstanding risks.

22. Amount of policies terminated the past year.

23. Amount of policies issued the past year.

24. Amount of premiums received in cash the past year.

25. Amount of premiums received in notes the past year.

26. Amount received on assessments the past year.

27. Amount received for interest, including dividends on stocks and all other revenue on investments, the last year.

28. Amount of losses paid the last year.

29. Amount of cash dividends paid to policy-holders the past year.

30. Amount paid in cash as return premiums on policies canceled the past year.

31. Amount for expenses, taxes and commissions.



32. State the gain or loss in investment account arising from changes in market values of securities the past year.

33. Amount assessed the last year.

34. Amount of liability to future assessment.

35. Highest rate of interest paid.

36. Highest rate of interest received.

37. Amount insured on real estate.

38. Amount insured on personal estate.

39. What proportion of the property insured in Massachusetts.

40. What proportion of the losses was on property in Massachusetts? (*Ibid*, 58 C.; *Laws of 1860*, 156, § 1; 1862, 181, § 6.)

**261.** The form for life insurance companies shall be as follows:

1. Name of the company.

2. When chartered.

3. For what period.

4. Where located.

5. State in full the assets of the company.

6. Number of shares owned in each bank; state par value and market value, per share.

7. Number of shares owned in each railroad, stating the corporate name of each, and amount invested in each, at cost, on books; state par value and market value, per share.

8. Amount owned in railroad bonds; state par value and market value, per share.

9. Amount invested in real estate, at cost, on the books of the company.

10. Amount loaned on mortgages of real estate.

11. Amount loaned on notes secured by collaterals of personal property.

12. Amount loaned on notes without collaterals.

13. State in full all other investments.

14. How much included in the foregoing statements of assets consists of premium notes on policies not returned as now in force?

15. Number, date, and amount of each outstanding policy not heretofore returned, and age of the insured.

16. Number, date, and amount of each policy which has within the year ceased to be in force, how terminated, what has been paid to the legal holder of the policy, and age of the insured.

17. Amount of losses ascertained and unpaid.

18. Amount of losses claimed against the company, whether acknowledged as due or not by the company.

19. Amount due from the company on its declared, promised, or acknowledged indebtedness or other claims, including dividends, bonuses on distribution of surplus, or as profits.

20. Amount received for premiums the past year.

21. Amount received for premiums in cash.

22. Amount received for premiums in promissory notes or securities.

23. Amount received for interest the past year.

24. Amount paid for interest the past year.

25. Amount of guaranty funds; and state particularly whether the same are in cash or subscription notes.

26. How are dividends, distributions of surplus funds, bonuses or estimated profits paid, whether in cash, scrip, or otherwise on credit, and whether on demand, or if on credit, for what length of time, and whether payable at a specific time or indefinitely at the discretion of the company.

27. Amount paid for expenses, taxes and commissions, the past year. (*Ibid, D.; Laws of 1860, 156, § 2.*)

**262.** The Insurance Commissioner is hereby authorized to amend and revise the forms of annual statements hereinbefore prescribed, and to propose such additional inquiries as are necessary to elicit a full exhibit of the business and standing of the various insurance companies doing business in this commonwealth. (*Laws of 1867, 267, § 3.*)

**263.** The time hereinbefore prescribed for filing annual statements may be extended by the Commissioner in favor of any company for good cause shown, but not beyond the first day of the month next after the date hereinbefore specified for filing the same. (*Ibid, § 2.*)

**264.** Any company doing business in this State, neglecting to make returns in the manner and within the time hereinbefore authorized and prescribed, shall forfeit one hundred dollars for each day's neglect; and every company that willfully makes false statements shall be liable to a fine of not less than five hundred nor more than one thousand dollars. Any new business done by any company or its agents in this State after neglect to make the prescribed returns, shall be deemed to be done in violation of law. (*General Statutes, 58, § 26; Laws of 1867, 267, § 3.*)

**265.** The Insurance Commissioner shall have authority to prevent the publication of any part of the annual statements of the life insurance companies, until such time as the annual report of said Commissioner is made to the legislature. (*Laws of 1864, 220, § 1.*)

#### FORM OF POLICY.

**266.** Any insurance company authorized to issue policies in this Commonwealth may print upon their policies the words "Massachusetts Standard Policy," provided that the printed parts of such policies are in the following form and language, and that all other provisions of said policies, except as provided in section two, are in writing:

The	Insurance Company of	,
in consideration of	dollars, insures	
to the amount of	dollars, on	

Bills of exchange, notes, accounts, evidences and security of property of every kind, books, wearing apparel, plate, money, jewels, musical instruments, medals, paintings, sculpture, and curiosities are not included in said insured property, unless specially mentioned.

Said property is insured for the term of beginning on the day of in the year one thousand eight hundred and at noon, and continuing until the

in the year one thousand eight hundred and at noon, against all loss or damage by fire, originating in any cause except invasion, foreign enemies, civil commotions, riot, or any military or usurped power whatever; the amount of said loss or damage to be estimated according to the actual value of the insured

property at the time when such loss or damage happens, but not to include loss or damage caused by explosions of any kind, unless fire ensues, and then to include that caused by fire only.

This policy shall be *void* if any material fact or circumstance stated in writing has not been fairly represented by the insured,—or if the insured now has or shall hereafter make any other insurance on the said property without the written assent of the company,—or if, without such assent, the said property shall be removed, unless such removal shall be necessary for its preservation from fire,—or if, without such assent, the situation or circumstances affecting the risk shall, by or with the advice, agency or consent of the insured, be so altered as to cause an increase of such risk, the non-occupancy of the premises insured or containing the property insured not being deemed, however, to cause such increase,—or if, without such assent, the said property shall be sold, or this policy assigned,—or if the insured shall make any attempt to defraud the company,—or if gunpowder or other articles subject to legal restriction shall be kept in quantities or manner different from those allowed or prescribed by law,—or if camphene, benzine, naphtha, or other chemical oils or burning fluids shall be used by the insured on the premises insured, except that what is known as refined petroleum, kerosene, or coal oil, may be used in stores or dwellings for lighting.

If the insured property shall be exposed to loss or damage by fire, the insured shall make all reasonable exertions to save and protect the same.

In case of any loss or damage under this policy, a *statement* in writing, signed and sworn to by the insured, shall be forthwith rendered to the company, setting forth the value of the property insured, the interest of the insured therein, all other insurance thereon, the purposes for which and the persons by whom the building insured, or containing the property insured, was used, and the time at which and the manner in which the fire originated, so far as known to the insured. The company may also examine the books of account and vouchers of the insured, and make extracts from the same.

In case of any loss or damage, the company, within sixty days after the insured shall have submitted a statement, as provided in the preceding clause, shall either pay the amount for which it shall be liable, or replace the property with other of the same kind and goodness,—or it may, within fifteen days after such statement is submitted, notify the insured of its intention to rebuild or repair the premises, and shall thereupon enter upon said premises and proceed to rebuild or repair the same with reasonable expedition. It is moreover understood that there can be no abandonment of the property insured to the company, and that the company shall not in any case be liable for more than the sum insured, with interest thereon from the time when the loss shall become payable, as above provided.

If there shall be any *other insurance* on the property insured, whether prior or subsequent, the insured shall recover on this policy no greater proportion of the loss sustained than the sum hereby insured bears to the whole amount insured thereon. And whenever the company shall pay any loss, the insured shall assign to it, to the extent of the amount so paid, all rights to recover satisfaction for the loss or damage from any person, town, or other corporation,





printed words from the form set forth in this act, shall first file with the Insurance Commissioner a copy of the printed form of contract or policy intended to be thereafter used and issued by said company, agent or person in this commonwealth, and thereafter in case of any change in such printed form, a statement thereof shall also be filed with the Insurance Commissioner prior to the use of a form containing such change in printed words, and any company, agent, or person failing or refusing to comply with the provisions of this section, may be enjoined on complaint of the Insurance Commissioner from issuing any more policies of insurance in this commonwealth. And, upon a request made by the secretary of any incorporated board of trade, chamber of commerce, or corn exchange, said insurance companies, agents, or persons shall furnish them, through the Insurance Commissioner, with copies of the printed forms of policy used or issued by them respectively in this commonwealth, and of all changes made in such forms as above provided. (*Ibid*, § 4.)

**270.** It shall be the duty of the Insurance Commissioner to keep such forms of contract or policy of insurance, and changes therein, in a book provided for such purpose, and also to examine such forms, and to note in said book, in a convenient manner for reference, the material variations of such forms from the form set forth in this act, which book shall be open to the inspection of the public, at the office of the Insurance Commissioner. Said Insurance Commissioner shall furnish a copy of such variations to any person applying for the same, and may charge a fee not exceeding one dollar for each such service; *Provided*, Such service shall be performed in his individual capacity, and that the commonwealth shall not assume any responsibility therefor. (*Ibid*, § 5.)

**271.** Any policy of insurance issued or delivered in this commonwealth in violation of any of the provisions of this act, shall nevertheless be binding upon the company issuing the same. (*Ibid*, § 6.)

#### MISCELLANEOUS.

**272.** When the actual funds of any life insurance company doing business in this commonwealth are not of a net cash value equal to its liabilities, counting (as such) the net value of its policies according to the "Combined Experience," or "Actuaries'" rate of mortality, with interest at four per centum per annum, it shall be the duty of the Insurance Commissioner to give notice to such company and its agents to discontinue issuing new policies within this commonwealth until such time as its funds have become equal to its liabilities, valuing its policies as aforesaid. Any officer or agent who, after such notice has been given, issues a new policy from and on behalf of such company before its funds have become equal to its liabilities as aforesaid, shall forfeit for each offense a sum not exceeding one thousand dollars. (*Laws of 1863*, 148.)

**273.** Every insurance company doing business in this State shall conduct the same in the proper and corporate name of said company, and not by various and different names. The policies and contracts of insurance issued by any company shall be headed or entitled only by the corporate name or title of said company. (*General Statutes*, 58, § 24.)

**274.** In all insurance against loss by fire by companies chartered or doing business in this commonwealth, the conditions of the

insurance shall be stated in the body of the policy, and neither the application of the insured nor the by-laws of the company shall be considered as a warranty or a part of the contract, except so far as they are incorporated in full into the policy, and so appear on its face, before the signatures of the officers of the company. (*Laws of 1861, 152; 1864, 196, § 1.*)

**275.** No policy shall be issued for a term exceeding seven years. But this section shall not apply to life insurance companies. (*General Statutes, 58, § 24; Laws of 1861, 189, § 1.*)

**276.** No insurance company shall deal or trade in buying or selling goods, wares, merchandise, or other like property, excepting such articles as have been insured by such company, on which losses are claimed by the insured. (*Ibid, § 23.*)

**277.** The Governor and Council may allow such reasonable compensation for services rendered and expenses incurred in enforcing the laws relating to insurance companies as they deem proper. (*Ibid, § 77.*)

**278.** Whoever acts or aids in any manner in negotiating contracts of insurance, or placing risks, or effecting insurance, for any person other than himself, receiving compensation therefor, and is not the officer, agent or sub-agent of the company or companies in which such insurance is effected, shall be deemed to be an insurance broker. (*Laws of 1869, 93, § 1.*)

**279.** Whoever acts or aids in any manner in negotiating contracts of reinsurance, or placing such risks, or effecting such insurance, for any party other than himself, receiving compensation therefor, shall be deemed an insurance broker within the meaning of section one of chapter ninety-three of the acts of the year eighteen hundred and sixty-nine. (*Laws of 1871, 297, § 8.*)

**280.** No person shall act as an insurance broker until he has procured a certificate of authority so to act, from the Insurance Commissioner. Such certificate shall authorize the person named therein to negotiate contracts of insurance, or place risks, or effect insurance with any insurance company established in this commonwealth, or its agents, and with the agents of any insurance company not incorporated in this commonwealth, which has complied with all of the laws thereof, and is duly authorized to do business therein; *Provided*, Such agents have duly given bond to make returns and pay taxes, and have complied with all other requirements of said laws.

Whoever assumes to act as an insurance broker otherwise than as aforesaid, shall be held to be an insurance agent, and subject to all the duties, requisitions, liabilities and penalties set forth in the laws relating to such agents. (*Laws of 1869, 93, § 2.*)

**281.** The Insurance Commissioner shall grant certificates of authority as aforesaid, which shall continue in force for one year from the date thereof.

For each certificate so granted, and for each renewal thereof, there shall be collected and paid into the Treasury of the commonwealth, the sum of ten dollars. (*Laws of 1869, 93, § 3, as amended by laws of 1873, chap. 164.*)

**282.** Whoever violates any of the provisions of this act shall be punished by a fine not exceeding five hundred dollars. (*Ibid, § 4.*)

## FRAUDS ON INSURANCE COMPANIES.

**283.** Whoever willfully burns a building or any goods, wares, merchandise, or other chattels, which are at the time insured against loss or damage by fire, with intent to injure the insurer, whether such person is the owner of the property burned or not, shall be punished by imprisonment in the State prison not exceeding twenty years. (*General Statutes*, 161, § 7.)

**284.** Whoever willfully casts away, burns, sinks, or otherwise destroys a ship or vessel with intent to injure or defraud an insurer of such ship or vessel, or of any property laden on board the same, or of any part thereof, shall be punished by imprisonment in the State prison for life or any term of years. (*Ibid*, § 76.)

**285.** Whoever lades, equips or fits out, or assists in lading, equipping or fitting out, a ship or vessel, with intent that the same shall be willfully cast away, burnt, sunk or otherwise destroyed, to injure or defraud an insurer of such ship or vessel, or of any property laden on board the same, shall be punished by imprisonment in the State prison not exceeding twenty years, or fine not exceeding five thousand dollars and imprisonment in the jail not exceeding three years. (*Ibid*, § 77.)

**286.** If the owner of a ship or vessel, or of property laden or pretended to be laden on board the same, or if any other person concerned in the lading or fitting out of a ship or vessel, makes out or exhibits, or causes to be made out or exhibited, a false or fraudulent invoice, bill of lading, bill of parcels, or other false estimates, of any goods or property laden, or pretended to be laden, on board such ship or vessel, with intent to injure or defraud an insurer of such ship, vessel or property, or any part thereof, he shall be punished by imprisonment in the State prison not exceeding ten years, or by fine not exceeding five thousand dollars and imprisonment in the jail not exceeding two years. (*Ibid*, § 78.)

**287.** If a master, or other officer, or mariner, of a ship or vessel, makes, or causes to be made, or swears to any false affidavit or protest, or if an owner or other person concerned in such ship or vessel, or in the goods or property laden on board the same, procures any such false affidavit or protest to be made, or exhibits the same, with intent to injure, deceive or defraud an insurer of such ship or vessel, or of any goods or property laden on board the same, he shall be punished by imprisonment in the State prison not exceeding ten years, or by fine not exceeding five thousand dollars and imprisonment in the jail not exceeding two years. (*Ibid*, § 79.)

## BOSTON PROTECTIVE DEPARTMENT.

**288.** George A. Curtis, Joseph F. Hovey, Joseph W. Kinsley, William B. Sears, Henry B. White, George F. Osborne, C. E. Guild, Charles E. Lane, John W. Porter, and all other officers for the time being of any incorporated company or association and any agent doing the business of fire insurance in the city of Boston, who may become associated with them and their successors, are hereby created a body corporate by the name of the "Boston Protective Department," with power to sue and be sued, and may hold by purchase, devise or otherwise, real and personal property for the use of said corporation, to an amount not exceeding one hundred thousand

dollars, and may sell and convey any part thereof, subject, however, to the laws of this State. (*Laws of 1874, chap. 61, § 1.*)

**289.** Said corporation shall have power to provide and maintain a corps of men, with proper officers, whose duty it shall be, so far as practicable, to discover and prevent fires; and whose appointment shall be subject to the approval of the Board of Fire Commissioners; shall provide suitable apparatus to save and preserve life and property at or after a fire, and power is hereby granted to such corps and its officers to enter any building on fire, or which in their judgment is immediately exposed to, or in danger of taking fire from other burning buildings, to protect and save life and property therein, and to remove such property or any part thereof at or immediately after a fire; *Provided, however,* that nothing in this act shall be so construed as to lessen in any way the authority of the officers or members of the Boston fire department, or to warrant or justify any interference with them in the performance of their duties, nor shall it in any way justify the owner of any building or personal property in the abandonment of his property. (*Ibid, § 2.*)

**290.** The officers and men of the Boston Protective Department, with their teams and apparatus, shall have the right of way, while going to a fire, through any street, lane or alley in the city of Boston, subject to such rules and regulations as the City Council and the Fire Commissioners may prescribe, and subject also to the rights of the Boston Fire Department, and any violation of the street rights of the Boston Protective Department shall be punished in the same manner as is provided for the punishment of violations of the rights of the Boston Fire Department in chapter three hundred and seventy-four of the acts of eighteen hundred and seventy-three. (*Ibid, § 3.*)

**291.** In the month of March eighteen hundred and seventy-four, and in the month of March of every year thereafter, there shall be held a meeting of the corporation hereby created, of which ten days' previous notice shall be inserted in at least two newspapers published in the city of Boston, at which meeting each incorporated insurance company or association doing business in the city of Boston, whether its officers or its agents be members of this corporation or not, shall have the right to be represented by one of such officers or agent, and each organization represented at such meeting shall be entitled to one vote.

A majority of the whole number so represented shall have power to decide upon the question of sustaining the corps herein before mentioned, and of fixing the maximum amount of expenses which shall be incurred therefor during the fiscal year next to ensue; and the whole of such amount or so much thereof as may be necessary may be assessed upon the organizations belonging to this corporation, and upon all other organizations and agencies, as hereinbefore mentioned, in proportion to the several amounts of premiums returned as received by each, as hereinafter provided, and such assessment shall be collectable by this corporation in any court of law in the State of Massachusetts. (*Ibid, § 4.*)

**292.** To provide for the payment of persons employed and to maintain the apparatus for saving life and property contemplated, this corporation is empowered to require a statement to be furnished semi-annually by all corporations, associations, underwriters, agents or persons, of the aggregate amount of premiums received for insuring property in the city of Boston, for and during the six months



next preceding the thirtieth day of June and the thirty-first day of December of each year, which statement shall be sworn to by the president or secretary of the corporation or association, or by the agent or person so acting and effecting such insurance in said city, and shall be handed to the treasurer of this corporation, within thirty days after the time to which such returns are to be made. (*Ibid*, § 5.)

**293.** It shall be lawful for the Treasurer or other appointed officer of this corporation, within ten days after the first day of January and the first day of July, in each year, by written or printed demand signed by him, to require from every corporation, association, underwriter, agent or person engaged in the business of fire insurance in the city of Boston, the statement provided for in the last preceding section of this act; and every officer of such corporation or association, and every individual, agent or underwriter who shall, for thirty days after such demand, neglect to render the account, shall forfeit fifty dollars for the use of the corporation created by this act; and he shall also forfeit, for their use, five dollars in addition for every day he shall so neglect after the expiration of the said thirty days; and such additional penalty may be computed and recovered up to the time of the trial of any suit for the recovery thereof, which penalty may be sued for and recovered, with costs of suit, in any court of record within this State. (*Ibid*, § 6.)

### INQUESTS IN CASES OF FIRE.

**294.** When property is destroyed by fire, and a complaint is subscribed and sworn to by any person before any police court, or any municipal court, or any trial justice, alleging that reasonable grounds exist for believing that the fire was caused by design, and a majority of the Mayor and Aldermen or Selectmen of the city or town respectively in which said property is situated certify in writing, that in their opinion the same is a proper case for investigation, such court or justice shall forthwith issue a warrant to a constable of the place where the property was destroyed requiring him forthwith to summon six good and lawful men of the county to appear before the court, or justice, at a time and place expressed in the warrant, to inquire when and by what means the fire originated; which warrant shall be served and returned in the manner prescribed in section three of chapter one hundred and seventy-five of the General Statutes; and the constables and jurors shall be subject to the penalties therein specified for similar neglects. If any person so summoned does not appear, the constable shall by order of the justice or court, return some person from the bystanders to complete the number. (*Laws of 1867, 303, § 1, as amended by laws of 1874, chap. 267, § 2.*)

**295.** The justice or court shall, in view of the spot on which the property was destroyed, administer to the persons thus summoned or returned the following oath: "You solemnly swear that you will diligently inquire and true presentment make, on behalf of this commonwealth, when and by what means the fire which has here occurred was caused, and that you will return a true inquest according to your knowledge and such evidence as shall be laid before you. So help you God." (*Ibid*, § 2.)

**296.** The justice or court may issue subpoenas for witnesses

returnable forthwith at a time and place therein set forth. Their attendance may be enforced in like manner as if they had been subpoenaed in behalf of the commonwealth. (*Ibid*, § 3.)

**297.** An oath to the following effect shall be administered to such witnesses: "You solemnly swear, that the evidence which you shall give to the inquest, concerning the origin of the fire of which inquiry is now to be made, shall be the truth, the whole truth, and nothing but the truth. So help you God." (*Ibid*, § 4.)

**298.** The testimony shall be reduced to writing by the presiding justice, or some person by his direction, and subscribed by the witnesses. (*Ibid*, § 5.)

**299.** The jury after hearing the testimony and making all needful inquiry, shall draw up and deliver to the justice or court their inquisition under their hands, in which they shall find and certify when and by what means the fire was caused; and said inquisition and testimony thus subscribed shall within one week thereafter, be filed by the magistrate with the clerk of the courts for the county, or in the county of Suffolk with the clerk of the municipal court. (*Ibid*, § 6.)

**300.** The fees of the magistrates and the expenses of any inquisition hereafter held under the provisions of chapter three hundred and three of the acts of the year eighteen hundred and sixty-seven, shall be returned to the mayor and aldermen or selectmen of the city or town where the property was destroyed, and being audited and certified by them shall be paid by such city or town. (*Laws of 1874, chap. 267, § 1.*)

## ARSON AND INCENDIARISM.

**301.** Whoever willfully and maliciously burns the dwelling-house of another, or any building adjoining such dwelling-house, or willfully and maliciously sets fire to any building by the burning whereof such dwelling-house is burnt, shall be punished by imprisonment in the State prison for life, or for any term of years. (*General Statutes, 1860, p. 796, § 1, as amended by act approved March 3, 1871.*)

**302.** Whoever willfully and maliciously burns in the night-time a meeting-house, church, court-house, town-house, college, academy, jail, or other building erected for public use, or a banking house, warehouse, store, manufactory, or mill, of another (being, with the property therein contained, of the value of one thousand dollars), or a barn, stable, shop, or office of another, within the curtilage of a dwelling-house, or any other building, by the burning whereof any building mentioned in this section is burnt in the night-time, shall be punished by imprisonment in the State prison for life or for any term of years. (*Ibid*, § 2, as amended by act approved March 3, 1871.)

**303.** Whoever willfully and maliciously burns in the day-time any building mentioned in the preceding section, the punishment for which if burnt in the night-time would be imprisonment in the State prison for life, shall be punished by imprisonment in the State prison not exceeding ten years. (*Ibid*, § 3.)

**304.** Whoever willfully and maliciously burns a banking house, warehouse, store, manufactory, mill, barn, stable, shop, office, out-house, or any other building whatsoever, of another, other than is mentioned in section two, or a bridge, lock, dam, or flume, or a ship,

or vessel, of another, shall be punished by imprisonment in the State prison not exceeding ten years. (*Ibid*, § 4.)

**305.** Whoever willfully and maliciously burns, or otherwise destroys, or injures a pile or parcel of wood, boards, timber, or other lumber, or any fence, bars, or gate, or a stack of grain, hay, or other vegetable product, or any vegetable product severed from the soil and not stacked, or any standing trees, grain, grass, or other standing product of the soil, or the soil itself, of another, shall be punished by imprisonment in the State prison not exceeding five years, or by a fine not exceeding five hundred dollars and imprisonment in the jail not exceeding one year. (*Ibid*, § 5.)

### EMBEZZLEMENT.

**306.** If any officer, agent, clerk, or servant, of any incorporated company, or if a clerk, agent, or servant, of any private person, or copartnership, except apprentices and other persons under the age of sixteen years, embezzles, or fraudulently converts to his own use, or takes, or secretes, with intent so to do, without consent of his employer, or master, any property of another, which has come to his possession or is under his care by virtue of such employment, he shall be deemed guilty of simple larceny. (*Ibid*, p. 800, § 38.)

**307.** For General Provisions relating to Corporations, see Revised Statutes, 1860, pp. 384-389, 599; Laws of 1873, p. 15.)

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# INSURANCE STATUTES OF MICHIGAN.

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*Revised by Hon. Samuel H. Row, Commissioner of Insurance.*

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## CONSTITUTIONAL PROVISIONS CONCERNING CORPORATIONS.

**1.** Corporations may be formed under general laws, but shall not be created by special act, except for municipal purposes. All laws passed pursuant to this section may be amended, altered, or repealed. (*Art. 15, § 1.*)

**2.** The stockholders of all corporations and joint stock associations shall be individually liable for all labor performed for such corporation or association. (*Ibid, § 7.*)

**3.** The Legislature shall pass no law altering or amending any act of incorporation heretofore granted, without the assent of two-thirds of the members elected to each House; nor shall any such act be renewed or extended. This restriction shall not apply to municipal corporations. (*Ibid, § 8.*)

**4.** No corporation, except for municipal purposes, or for the construction of railroads, plank roads, and canals, shall be created for a longer term than thirty years. (*Ibid, § 10.*)

**5.** The term "corporation," as used in the preceding sections of this article, shall be construed to include all associations and joint stock companies having any of the powers or privileges of corporations, not possessed by individuals or partnerships. All corporations shall have the right to sue, and be subject to be sued in all courts, in like cases as natural persons. (*Ibid, § 11.*)

**6.** No corporation shall hold any real estate hereafter acquired, for a longer period than ten years, except such real estate as shall be actually required by such corporation in the exercise of its franchises. (*Ibid, § 12.*)

**7.** Previous notice of any application for an alteration of the charter of any corporation shall be given in such manner as may be prescribed by law. (*Ibid, § 16.*)

## INSURANCE BUREAU.

**8.** There is hereby established in the State Department a separate and distinct bureau, which shall be especially charged with the execution of the laws heretofore passed, or that may be hereafter passed, in relation to fire, fire and marine, life and other methods and practices of insurance. (*Laws of 1871, Act No. 108, § 1.*)

**9.** The chief officer of said department shall be denominated the Commissioner of Insurance. He shall be a citizen of this State, and shall reside, during the term of his office, at the seat of government, and personally superintend the duties of his office; and shall

not be directly or indirectly connected with the management or affairs of any insurance company. He shall be appointed by the Governor, by and with the consent of the Senate, and shall hold his office for the term of two years; he shall receive an annual salary of two thousand dollars, to be paid quarterly, on the warrant of the Auditor General. He may appoint a deputy, with the approbation of the Governor, and revoke such appointment at pleasure. Such deputy shall take and subscribe the oath prescribed by the constitution, and whenever the Commissioner of Insurance shall, by reason of sickness, absence, or other cause, be disabled from executing the duties of his office, his deputy, duly appointed, shall execute the duties thereof until such disability be removed, or until a Commissioner shall be appointed, and such deputy shall receive an annual salary of twelve hundred dollars. The Commissioner may employ a regular clerk to discharge such duties as he may assign him, whose compensation shall not exceed one thousand dollars per annum; the salaries of such deputy and clerks to be paid monthly, on the warrant of the Auditor-General. Whenever a vacancy shall occur in said office of Commissioner, by reason of death, removal, or otherwise, the Governor shall fill such vacancy by appointment, by and with the advice and consent of the Senate, if in session. Within fifteen days from the time of notice of his appointment, the Commissioner shall take and subscribe the oath of office prescribed by the constitution, and file the same in the office of the Secretary of State; and the said Commissioner of Insurance shall give to the people of the State of Michigan a bond in the penalty of ten thousand dollars, with sureties to be approved by the Auditor-General, conditioned for the faithful discharge of the duties of his office. (*Ibid*, § 2, as amended by laws of 1873, Act No. 30.)

**10.** The Commissioner of Insurance shall possess all the powers, perform all the duties, and be subjected to all the obligations and penalties now conferred by law upon the Secretary of State, or to which the Secretary of State is subject, in relation to insurance companies and the formation thereof, under the laws relating thereto, so that every power and duty thereby conferred on the Secretary of State shall, from and after the appointment of such Commissioner, be transferred to and conferred upon the said Commissioner. The Commissioner shall be required to annually report the name and compensation of the clerk employed by him, and the whole amount of expenses of the department during the year; such report shall be made on or before the last day of June in each year, and fifteen hundred copies shall be printed for public information and use. (*Ibid*, § 3.)

**11.** The said Commissioner, with the approval of the Governor, shall devise a seal, with suitable inscriptions, for his office, a description of which, with certificate of the approval of the Governor, shall be filed in the office of the Secretary of State, with an impression thereof, which seal shall thereupon be and become the seal of office of the Commissioner of Insurance, and the same may be renewed whenever necessary. Every certificate, assignment, or conveyance, executed by the said Commissioner in pursuance of any authority conferred on him by law, and sealed with his said seal of office, shall be received as evidence, and may be recorded in the proper recording offices, in the same manner, and with the like effect, as a deed regularly acknowledged or approved before an



officer authorized by law to take the proof or acknowledgment of deeds, or filed in the office of any county clerk or clerk of a court of record; and all copies of papers in the office of the said Commissioner, certified by him, and authenticated by the said seal, shall in all cases be evidence in all courts of this State, equally and in like manner as the original. An impression of said seal directly on paper shall be as valid as if made on a wafer or wax. (*Ibid*, § 4.)

**12.** All books, papers, and documents, and all other papers whatever in the office of the Secretary of State, relating to the business of insurance, shall be transferred to the custody of the Commissioner of the Insurance Bureau, and be and remain in his charge and custody. (*Ibid*, § 5.)

**13.** There shall be assigned to the said Commissioner by the Secretary of State, at Lansing, suitable rooms for conducting the business of said bureau; the necessary expenses of which shall be audited by the Board of State Auditors on the certificate of the Commissioner, and paid on the warrant of the Auditor-General. (*Ibid*, § 6, as amended by laws of 1873, Act No. 30.)

**14.** The taxes on premiums from insurance companies shall continue to be paid to the State Treasurer on the first day of January, or within sixty days thereafter, in each year, and shall be upon the premiums which, during the year or part of the year ending on the preceding thirty-first day of December, shall have been received by any insurance company, or by any person acting as agent therefor, both upon policies issued by agents in this State, or policies issued at the office of the companies upon application of sub-agents or others, or for any individuals or association of individuals, not incorporated or authorized by the laws of this State, to effect insurance against fire, inland, marine, life, casualty, or other losses and risks, or which shall have been received by any person for such company or agent, or shall have been agreed to be paid for any insurance effected or agreed to be effected or procured by such company or agent, or against fire, inland, marine, life, casualty, or other risks, although such companies, associations, or individuals may be incorporated or authorized for that purpose by the laws of any other State of the United States, or of any foreign government. The State Treasurer, on receiving such tax from any company, shall issue therefor duplicate receipts, one of which he shall deliver to the company and the other shall be filed with said Commissioner (*Ibid*, § 7.)

**15.** It shall be proper and lawful for the Commissioner of Insurance to visit any insurance company in the other States, for the examination of its affairs, the expenses in all cases to be paid by said insurance companies. (*Ibid*, § 8.)

**16.** The Governor shall have the power, and it is hereby made his duty, to remove the said Commissioner for neglect of duty, breach of trust, incompetence, or malfeasance in office, upon reasonable cause shown; and in case of such removal, the Governor shall file in the office of the Secretary of State, and report to the legislature at its next session, the reasons for such removal. (*Ibid*, § 10.)

#### FIRE AND MARINE INSURANCE COMPANIES.

**17.** Any number of persons, not less than seven, may associate together and form an incorporated company for either of the following purposes, to wit:

*First.*—To make insurance on dwelling-houses, stores, and all kinds of buildings, and upon household furniture, goods, wares and merchandise, and any other property, against loss or damage by fire;

*Second.*—To make insurance as aforesaid upon vessels, freights, goods, wares, merchandise, and other property, against the risks of inland navigation and transportation. (*Laws of 1869, Act No. 136, § 1.*)

**18.** Any company organized under this act shall have power to effect reinsurance of any risks taken by them respectively. (*Ibid, § 2.*)

**19.** Such persons shall file in the office of the Commissioner of Insurance,\* a declaration, signed by them, expressing their intention to form a company for the purpose of transacting the business of insurance, as expressed in the first section of this act, which declaration shall also comprise a copy of the articles of association proposed to be adopted by them, and shall publish a notice of such intention, once in each week, for at least six weeks, in a public newspaper in the county in which such insurance company is proposed to be located. (*Ibid, § 3.*)

**20.** The articles of association shall set forth the name of the company; the place where the principal office for the transaction of its business shall be located; the mode and manner in which the corporate powers granted by this act are to be exercised; the mode and manner of electing trustees or directors, a majority of whom shall be citizens of this State; and of filling vacancies (but each director of a stock company shall be the owner in his own right of at least five hundred dollars' worth of the stock of such company, at its par value); the period for the commencement and termination of its fiscal year, and the amount of capital to be employed in the transaction of its business; and the Commissioner of Insurance shall have the right to reject any name or title of any company applied for, when he shall deem the name too similar to one already appropriated, or likely to mislead the public in any respect. (*Ibid, § 4.*)

**21.** No company formed under this act shall, directly or indirectly, deal or trade in buying or selling any goods, wares, merchandise, or other commodities whatever, excepting such articles as may have been insured by such company, and are claimed to be damaged by fire or water. (*Ibid, § 5.*)

**22.** The capital stock of any stock company organized under this act shall not be less than one hundred thousand dollars, in shares of not less than twenty-five or more than fifty dollars each, which capital stock may be increased by a vote of two-thirds of the stockholders, to not more than one million dollars; nor shall any company hereafter organized on the plan of mutual insurance, commence business† in this State, until agreements have been en-

\* The words "Commissioner of Insurance" are substituted for "Secretary of State" throughout these laws, in accordance with the provisions of Sec. 3 of Act No. 108 of Session Laws of 1871.

† The above regulates the organization of mutual companies which insure other risks than farm buildings and contents. The following is applicable to mutual companies organized for the purpose of insuring farm buildings and contents solely (as per Sec. 37): "(2918) Sec. 5. \* \* \* And no mutual insurance company organized as aforesaid shall commence business until *bona fide* agreements have been entered into for insurance with at least one hundred individuals, covering property to the insured to the amount of not less than fifty thousand dollars." (*Compiled Laws of 1871, p. 967.*)

tered into for insurance with at least two hundred applicants, the premiums upon which shall amount to not less than twenty-five thousand dollars, of which at least five thousand dollars shall have been paid in actual cash, and for the remainder of which, notes of solvent parties, founded upon actual and *bona fide* application for insurance, shall have been received. No one of the notes received as aforesaid shall amount to more than five hundred dollars; and no two thereof shall be given for the same risk, or made by the same person or firm, except where the whole amount of such notes does not exceed the sum of five hundred dollars; nor shall any note be regarded or represented as capital stock unless a policy [is] to be issued upon the same within thirty days after the organization of the company taking the same, upon a risk which shall be for no shorter period than twelve months. Each of said notes shall be payable, in whole or in part, at any time when the directors shall deem the same requisite for the payment of losses by fire, and such incidental expenses as may be necessary for transacting the business of said company; and no note shall be accepted as part of such capital stock unless the same shall be accompanied by a certificate of the Clerk of the Circuit Court of the county in which the person executing such note shall reside, that the person making the same is, in his opinion, pecuniarily good and responsible for the same in property not exempt from execution by the laws of this State; and no such note shall be surrendered while the policy for which it was given continues in force. But no company organized on the plan of mutual insurance, and insuring against any other [of the] risks mentioned in section one of this act shall hereafter do any business, or take any risks, or make any insurance, in any more than two counties in this State, which counties shall be contiguous, and which counties, in the case of companies hereafter organized, shall be named and set forth in their articles of association, and in the statement required by section three to be filed in the office of the Commissioner of Insurance. No fire insurance company organized under this act, or transacting business in this State, shall expose itself to any loss on any one fire or inland navigation risk, or hazard, to an amount exceeding ten per cent. of its paid-up capital, nor shall any fire insurance company organized under the laws or by authority of any foreign government, expose itself to any loss on any one fire or inland navigation risk, or hazard, to an amount exceeding ten per cent. of its deposit capital in the United States. (*Ibid*, § 6, as amended by laws of 1873, Act No. 52.)

**23.** It shall and may be lawful for the individuals associated for the purpose of organizing any company under this act, after having published the notice and filed the declaration and a copy of their articles of association as required by the third section of this act, and also on filing in the office of the Commissioner of Insurance proof of such publication, by the affidavit of the publisher of such newspaper, his foreman, or clerk, to open books for subscription to the capital stock of the company so intended to be organized, and to keep the same open until the full amount specified in the articles of association is subscribed; or, in case the business of such company is proposed to be conducted on the plan of mutual insurance, then to open books to receive propositions, and enter into agreements, in the manner and to the extent specified in the sixth section of this act. (*Ibid*, § 7.)

**24.** It shall be lawful for any fire insurance company organ-

ized under this act, or incorporated under any law of this State, to invest its capital, and the funds accumulated in the course of its business, or any part thereof, in bonds and mortgages on unincumbered improved real estate within the State of Michigan, worth double the sum loaned thereon, exclusive of buildings, unless such buildings are insured and the policy transferred to such company; said mortgages shall not, however, be accounted a part of the capital stock of a company until they have been recorded agreeable to the provisions of law, and a certificate thereof from the Register of Deeds filed with the Commissioner of Insurance, together with an abstract of the title of the lands therein mortgaged, and also a certificate of the Register of Deeds of the county in which the lands are located, that the same are worth at least double the amount loaned thereon; and also in the bonds of this State, or bonds or treasury notes of the United States, and also in the bonds of any county, municipality, or school district in this State authorized to be issued by law, and to lend the same, or any part thereof, on the security of such bonds, or treasury notes, or upon bonds and mortgages as aforesaid, and to change and reinvest the same as occasion may from time to time require. (*Ibid*, § 8.)

**25.** No company formed under this act shall purchase or hold any real estate, except—

*First.*—Such as shall be necessary for its immediate accommodation in transacting business; or,

*Second.*—Such as shall have been conveyed or mortgaged to the company in good faith, by way of security for debts; or,

*Third.*—Such as shall have been conveyed to the company in satisfaction for debts; or,

*Fourth.*—Such as shall have been purchased at sales, upon judgments, decrees, or mortgages in favor of such company, or held or owned by it. And all real estate obtained by virtue of any provisions of this section, except that mentioned in the first subdivision, shall be sold or disposed of within five years after the title has been perfected in such company, unless the company shall procure a certificate from the Commissioner of Insurance that the interest of said company will materially suffer by forced sale, in which event the sale may be postponed for such period as the said Commissioner of Insurance shall direct in said certificate, not to extend ten years in all. (*Ibid*, § 9.)

**26.** The articles of association, and proof of publication, herein required to be filed by every such company, shall be examined by the Attorney-General, and if found conformable to this act, and not inconsistent with the Constitution and laws of this State, shall be certified by him to the Commissioner of Insurance, who shall thereupon make an examination, or cause one to be made by some disinterested person officially appointed by him for that purpose; and if it shall be found (if the examination be made by other than the Commissioner of Insurance, then the finding shall be certified under oath) that the capital herein required of the company named, according to the nature of the business proposed to be transacted by such company, has been paid in, and that it is possessed of such securities as is required by the eighth section of this act, then he shall so certify; and if the examination be made by other than the Commissioner of Insurance, then the finding shall be certified under oath, or if it is proposed to be a mutual insurance company, that it has received and is in actual possession of the capital, premiums, or



*bona fide* engagements of insurance or other securities, as the case may be, to the extent and value required by the sixth section of this act. The name and residence of the maker of each premium note forming part of the capital of any such proposed mutual insurance company, and the amount of such note, shall be returned to the Commissioner of Insurance. The corporators or officers of any such company or proposed company, contemplated by this act, shall be required to certify, under oath, to the Commissioner of Insurance, that the capital exhibited to the person making the examination directed in this section, was *bona fide* property of the company so examined. Such certificates shall be filed in the office of the said Commissioner of Insurance, who shall thereupon deliver to such company a certified copy of the articles of association, and of said certificates, which, on being filed in the office of the clerk of the county where the company is to be located, shall be their authority to commence business and issue policies; and such certified copy of the articles of association, and of said certificates, may be used in evidence for or against said company with the same effect as the originals. (*Ibid*, § 10.)

27. The corporators, or the trustees or directors, as the case may be, of any company organized under this act, shall have power to make such by-laws, not inconsistent with their articles of association or with the Constitution or laws of this State, as may be deemed necessary for the government of its officers and the conduct of its affairs, and the same, when necessary, to alter and amend; and they and their successors may have a common seal, and may change and alter the same at their pleasure. (*Ibid*, § 11.)

28. It shall not be lawful for the directors, trustees, or managers of any fire insurance company to make any dividend, except from the surplus profits arising from their business; and in estimating such profits, there shall be reserved therefrom a sum equal to the whole amount of premiums on unexpired risks and policies, which are hereby declared to be unearned premiums; and also there shall be reserved all sums due the corporation on bonds and mortgages, bonds, stocks, and book accounts, of which no part of the principal or the interest thereon has been paid during the last year, and for which foreclosure or suit has not been commenced for collection, or which, after judgment obtained thereon, shall have remained more than two years unsatisfied, and on which interest shall not have been paid, and also there shall be reserved all interest due or accrued and remaining unpaid; *Provided always*, That any company may declare dividends not exceeding ten per cent. on its capital stock, in any one year, that shall have accumulated and be in possession of a fund, in addition to the amount of its capital stock, and of such dividend, and all actual outstanding liabilities, equal to one-half of the amount of all premiums on risks not terminated at the time of making such dividend. Any dividend made contrary to these provisions, shall subject the company making the same to a forfeiture of its corporate rights, and each stockholder receiving it to a liability to the creditors of such company, to the extent of the dividend received, in addition to the other penalties and punishments in such case made and provided. (*Ibid*, § 12.)

29. All notes deposited with any mutual insurance company at the time of its organization, as provided in section six, shall remain as security for all losses and claims until the accumulation of the profits, invested as required by the eighth section of this act, shall

equal the amount of cash capital required to be possessed by stock companies organized under this act; but any note which may have been deposited with any mutual insurance company subsequent to its organization, in addition to the cash premium on any insurance effected with such company, may, at the expiration of the time of such insurance, be relinquished and given up to the maker thereof, or his representative, upon his paying his proportion of all losses and expenses which may have accrued thereon during such term; and all such premium notes shall be a lien upon the premises insured, to the amount of principal and interest due thereon. The directors or trustees of any such company shall have the right to determine the amount of the note to be given in addition to the cash premium by any person insured in such company; but in no case shall the note be more than five times the whole amount of the cash premium. And every person effecting insurance in any mutual company, and also their heirs, executors, administrators, and assigns, continuing to be so insured, shall thereby become members of said corporation during the period of insurance, and shall be bound to pay for losses and such necessary expenses as aforesaid, accruing in and to said company, in proportion to the amount of his deposit note or notes. The directors shall, after receiving notice of any loss or damage by fire sustained by any member, and ascertaining the same, or after the rendition of any judgment against said company for loss or damage, settle and determine the sums to be paid by the several members thereof, as their respective portion of such loss, and publish the same in such manner as they shall see fit, or as the by-laws shall have prescribed; and the sum to be paid by each member shall always be in proportion to the original amount of his deposit note or notes, and shall be paid to the officers of the company within thirty days next after the publication of said notice. And if any member shall, for the space of thirty days after the publication of said notice, and after personal demand for payment shall have been made, neglect or refuse to pay the sum assessed upon him as his proportion of any loss, as aforesaid, in such case the directors may sue for and recover the whole amount of his deposit note or notes, with costs of suit; but execution shall only issue for assessments and costs as they accrue, and every such execution shall be accompanied by a list of the losses for which the assessment is made. If the whole amount of deposit notes shall be insufficient to pay the loss occasioned by any fire or fires, in such case the sufferers insured by the said company shall receive, towards making good their respective losses, a proportional share of the whole amount of said notes, according to the sums by them respectively insured; but no member shall ever be required to pay for any loss occasioned by fire, more than the whole amount of his deposit note. (*Ibid.*, § 13.)

**30.** Every insurance company hereafter organized under this act shall, if it be a mutual company, embody the word "mutual" in its title, which shall appear on the first page of every policy and renewal receipt; and every company doing business as a cash stock company shall, upon the face of its policy, in some suitable manner, express that such policy is a stock policy. (*Ibid.*, § 14.)

**31.** Suits at law may be maintained by any corporation formed under this act, against any of its members or stockholders, for any cause relating to the business of such corporation; also, suits at law may be prosecuted and maintained by any member or stock-

holder against such corporation for any losses which may have accrued, if payment is withheld more than sixty days after such losses may have become due. (*Ibid*, § 15.)

§2. The trustees and corporators of any company organized under this act, shall be jointly and severally liable for all debts or responsibilities of such company, until the whole amount of the capital of such company shall have been paid in and a certificate thereof recorded, as hereinbefore provided. Notes taken in advance of premiums, under this act, are not to be considered debts of the company in determining whether a company is insolvent, but are to be regarded as assets of the company. (*Ibid*, § 16.)

§3. Any existing fire insurance company, and any company formed under this law, may at any time increase the amount of its capital stock, after notice given once a week for six weeks in a newspaper published in the county where such company is located, of such intentions, with the written consent of three-fourths, in amount, of its stockholders, unless otherwise provided in its articles of association; or if a mutual company, with the unanimous consent of its trustees, unless otherwise provided in its articles of association, by altering or amending such articles of association in this respect, and filing a copy thereof, so amended, together with a declaration under its corporate seal, if it have any, signed by its president and directors, of their desire so to do, with such written consent of three-fourths, in amount, of its stockholders, or the unanimous consent of the trustees, as aforesaid, to such increase, in the office of the Commissioner of Insurance, and upon the same proceedings being had as are required by the tenth section of this act. (*Ibid*, § 17.)

§4. Such companies as may have been organized under the "Act to provide for the incorporation of insurance companies, and defining their powers and duties," approved February 15, 1859, and the acts amendatory thereof, are hereby brought under all the provisions of this act, except that their capitals may continue of the amounts named in their respective articles of association during the existing term thereof, and except as provided in section thirty-seven of this act. (*Ibid*, § 18.)

§5. All companies organized under this act shall be deemed and taken to be bodies corporate and politic, in fact and in name, and shall be subject to all the provisions of the compiled laws in relation to corporations, so far as the same are applicable. (*Ibid*, § 19.)

§6. It shall be the duty of the president, or vice-president and secretary of each stock company organized under this act, or under any law of this State, annually, on the first day of January, or within one month thereafter, to prepare, under their own oath, and deposit in the office of the Commissioner of Insurance, a statement of the condition of such company on the thirty-first day of December then next preceding, exhibiting the following facts and items, in the following form, namely:

*First*.—The amount of the capital stock of the company.

*Second*.—The property or assets held by the company, specifying—

1. The value, as nearly as may be, of the real estate held by such company;

2. The amount of cash on hand and deposited in banks to the credit of the company, specifying in what banks the same is deposited;

3. The amount of cash in the hands of agents and in course of transmission ;

4. The amount of loans secured by bonds, and mortgages constituting the first lien on real estate, on which there shall be less than one year's interest due or owing ;

5. The amount of loans on which interest shall not have been paid within one year previous to such statement ;

6. The amount due the company on which judgments have been obtained ;

7. The amount of bonds of this State, of the United States, and of any other bonds owned by the company, specifying the amount, number of, and par and market value of each kind ;

8. The amount of bonds held thereby as collateral security for loans, with the amount loaned on each kind, its par value and the market value ;

9. The amount of accrued interest not due ;

10. The amount of interest actually due and unpaid ;

11. Amount due from agents ;

12. The amount due for premiums ;

13. The amount of all other loans and securities ;

14. The amount of all other property and investments of the company.

*Third.*—The liabilities of such company, specifying—

1. The amount of losses due and yet unpaid ;

2. The amount of claims for losses resisted by the company ;

3. The amount of losses incurred during the year, including those claimed and not yet due, and of those reported to the company upon which no action has been taken ;

4. The amount of dividends declared and due, and remaining unpaid ;

5. The amount of dividends, either cash or scrip, declared but not yet due ;

6. The amount of money borrowed, and security given for the payment thereof ;

7. The amount of unearned premiums ;

8. The amount of all other existing claims against the company.

*Fourth.*—The income of the company during the preceding year, specifying—

1. The amount of cash premiums, and whether the same shall have been received for fire or marine insurance, and the amount of each class ;

2. The amount of interest money received ;

3. The amount of income received from other sources.

*Fifth.*—The expenditures during the preceding year, specifying :

1. The amount of losses paid during the year, stating how much of the same accrued prior and how much subsequent to the date of the preceding statement, and the amount at which such losses were estimated in such preceding statement ;

2. The amount of dividends paid during the year ;

3. The amount of expenses paid during the year, including commissions and fees to agents and officers of the company ;

4. The amount paid in taxes ;

5. The amount of all other payments and expenditures.

If it be a mutual company, such report shall state and show :

1. The whole number of members belonging thereto ;



2. The number of new members that have been added thereto during the year;

3. The amount of property insured during the year, and the whole amount then at risk;

4. The amount of premium or deposit notes taken during the year, and the whole amount of such notes then in force and held by the company;

5. The amount of cash premiums received during the year, and the total amount of such premiums then belonging to the company, and what amount of the same is in actual cash on hand;

6. The amount of assessments levied upon the members during the year;

7. The rate per cent. of such assessments on the property insured, and the rate per cent. of such assessments on the premium or deposit notes, or other obligations upon which the assessments are made;

8. The amount collected and paid in on assessments made during the year, and what amount has been collected on assessments levied prior to that year, and the gross amount of assessments then outstanding and not canceled by the board of directors, the gross amount re-assessed for assessments not paid;

9. The amount of losses paid during the year;

10. The amount of salary and fees paid to each officer and director, and to whom paid;

11. The items and amount of all other expenses paid during the year;

12. The amount of all claims for losses, and other debts existing against the company, showing what amount of claims and losses is then due and payable; what amount has not matured according to the terms of the contract; what amount is resisted for any cause, or for which the company do not consider themselves legally liable. The statement herein provided for shall be in lieu of any or all statements now required by any existing law. (*Ibid*, § 20.)

**37.** The Commissioner of Insurance is hereby authorized and empowered to address any inquiries to any insurance company, or the secretary thereof, in relation to its doings or condition, or any other matter connected with its transactions; and it shall be the duty of any company so addressed to promptly reply in writing to any such inquiries. Every fire insurance company organized under any law of this State, failing to make and deposit such statements, or to reply to any inquiry of the said Commissioner of Insurance, shall be subject to the penalty of five hundred dollars, and an additional five hundred dollars for every month that such company shall continue thereafter to transact any business of insurance. (*Ibid*, § 21.)

**38.** It shall be the duty of the Commissioner of Insurance to cause to be prepared and furnished to each of the companies, and to the attorneys of companies incorporated by other States and foreign governments, printed forms of the statements required by this act; and he may, from time to time, make such changes in the form of such statements as shall seem to him best adapted to elicit from the companies a true exhibit of their condition in respect to the several points hereinbefore enumerated. It shall be the duty of

the Commissioner of Insurance to cause the information contained in the statements required by this act to be arranged in a tabular form, and prepare the same in a single document for printing, which he shall communicate to the Legislature. (*Ibid*, § 22.)

29. It shall not be lawful for any insurance company, association, or partnership incorporated by or organized under the laws of any other State of the United States, or any foreign government, directly or indirectly, to take risks or transact any business of insurance in this State, unless possessed of the amount of actual capital required of similar companies formed under the provisions of this act; and any such company desiring to transact any such business as aforesaid, by any agent or agents in this State, shall first appoint an attorney in this State on whom process of law can be served, which process shall issue from the courts of this State, and such courts shall have exclusive jurisdiction of all cases arising under this act, and shall file in the office of the Commissioner of Insurance a certified copy of the vote or resolution of the directors appointing such attorney, which appointment shall continue until another attorney be substituted; and in case any such insurance company shall cease to transact business in this State according to the laws thereof, the agent last designated, or acting as such for such corporation, shall be deemed to continue agent for such corporation for the purpose of serving process for commencing actions upon any policy or liability issued or contracted while such corporation transacted business in this State; and service of such process for the causes aforesaid upon any such agent shall be deemed a valid personal service upon such corporation. And shall also file a certified copy of its charter, or deed of settlement, together with a statement under the oath of the president or vice-president and other chief officer, and secretary, of the company for which he or they may act, stating the name of the company and place where located; the amount of its capital, with a detailed statement of its assets, showing the amount of cash on hand, in bank, or in the hands of agents; the amount of real estate, and how much the same is encumbered by mortgage; the number of shares of stock of every kind owned by the company; the par or market value of the same; amount loaned on bond and mortgage; the amount loaned on other security, stating the kind and the amount loaned on each, and the estimated value of the whole amount of such securities; any other assets or property of the company; also, stating the indebtedness of the company, the amount of losses adjusted and unpaid, the amount incurred and in process of adjustment, the amount resisted by the company as illegal and fraudulent, and any other claims existing against the company; also a copy of the last annual report, if any, made under any law of the State by which such company was incorporated; and no agent shall be allowed to transact business for any company whose capital is impaired to the extent of fifteen per cent. thereof, while such deficiency shall continue; nor shall it be lawful for any person to act as agent for any company or companies referred to in this section, directly or indirectly, in taking risks or transacting the business of fire or inland navigation insurance in this State without procuring or receiving from the Commissioner of Insurance a certificate of authority, stating that such company has complied with all the requisitions of this act which apply to such companies, and the name of the attorney appointed to act for the company. A certified copy of such certifi-

cate of authority, with statement, must be filed by the agent in the office of the clerk of every county where such company has agents, and shall be published in some paper of general circulation in the State, four successive times after the filing such statement as aforesaid, and within thirty days thereafter proof of such publication, by the affidavit of the publisher of such newspaper, his foreman, or clerk, shall be filed in the office of the said Commissioner of Insurance. The statements and evidences of investments required by this section shall be renewed from year to year, in such manner and form as may be required by said Commissioner of Insurance, with an additional statement of the amount of premiums received and losses incurred upon fire and marine risks, separately, in this State, during the preceding year, so long as such agency continues; and the said Commissioner of Insurance, on being satisfied that the capital, securities, and investments remain secure, as hereinbefore provided, shall furnish a renewal of his certificate as aforesaid; and the agent or agents obtaining said certificate shall file a certified copy of the same in the office of the Clerk of the county in which such agency shall be established, within thirty days after receiving the same. Any violation of any of the provisions of this section shall subject the company violating to a penalty of five hundred dollars for each violation, and the additional sum of one hundred dollars for each month during which any such company shall neglect to make such publication, or to file such affidavits and statements as are herein required. Every agent of any fire insurance company shall, in all advertisements of such agency, publish the location of the company, giving the name of the city, town, or village in which the company is located, and the State or government under the laws of which it is organized. The term agent or agents, used in this section, shall include any acknowledged agent, surveyor, broker, or any other person or persons who shall in any manner aid in transacting the insurance business of any insurance company not incorporated by the laws of this State. The provisions of this section shall apply to all foreign insurance companies, partnerships, associations, and individuals, whether incorporated or not. (*Ibid*, § 23, as amended by laws of 1871, Act No. 51.)

40. All insurance companies, associations, corporations, partnerships, or individuals transacting the business of fire, or fire and marine insurance in this State, incorporated by or organized under the laws of any other State of the United States, shall make annual statements to the Commissioner of Insurance, in such manner and on such detailed forms as may be prescribed or furnished by him, of their condition and affairs upon the thirty-first day of December preceding, on the first day of January in each year, or within thirty days thereafter. Companies, associations, corporations, partnerships, or individuals incorporated and organized under the laws and authority of any foreign government, authorized to transact business in this State, shall be required to make and file their annual statements on the first day of June in each year, or within sixty days after their annual meeting, as specified in their respective charters or acts of incorporation. They shall also cause to be made out and filed supplementary annual statements of their business in the United States for the year ending the thirty-first day of December, on the first day of January in each year, or within sixty days thereafter. Such supplementary reports shall be made out in the same manner as the reports required from companies organized

under the laws of other States of the United States, and the managers, resident directors, or general agents for the United States shall, for the purposes of making such supplementary reports, be deemed the legal and proper officers of such companies or corporations. (*Ibid*, § 24, as amended by laws of 1871, Act No. 92.)

41. In case of neglect or refusal to make such annual statements as aforesaid, all persons acting in this State as agents or otherwise in transacting the business of insurance for said companies, corporations, associations, partnerships, or individuals, shall be subject to the same penalties provided by law in case of the failure of any insurance company organized under the laws of this State to make an annual statement as now provided by law. (*Ibid*, § 25.)

42. It shall be the duty of the Commissioner of Insurance, as often as once in six months, to appoint one or more competent persons, not officers of any fire insurance company doing business in this State, to examine into the affairs of any fire insurance company incorporated under any law of this State, and whenever he shall deem it expedient so to do, to examine into the affairs of any such company, incorporated or organized under the laws of any other State of the United States, doing business by its agents in this State; and it shall be the duty of the officers or agents of any such company doing business in this State, to cause their books to be opened for the inspection of the person or persons so appointed, and otherwise to facilitate such examination, so far as it may be in their power to do; and for that purpose the said Commissioner of Insurance, or the person or persons so appointed by him, shall have power to examine, under oath, the officers and agents of any company relative to the standing and condition of said company; and whenever the said Commissioner of Insurance shall deem it for the interest of the public so to do, he shall publish the result of such investigation in one or more papers in this State; and whenever it shall appear to the said Commissioner of Insurance, from such examination, that the assets of any company incorporated under any law of this State are insufficient to justify the continuance in business of any such company, he may direct the officers thereof to require the stockholders to pay in the amount of such deficiency within such period as he may designate in such requisition, and in case any such company shall fail to pay in and make good the full amount of such deficiency within thirty days after such requisition and direction as aforesaid, it shall be the duty of the Commissioner of Insurance to give notice of such failure in some newspaper published in the county where the office of such company is located by its charter; such notice shall contain a brief statement of the fact of such failure to comply with this section, and shall be published in such paper once in each week for three successive weeks. It shall not be lawful after the first publication of such notice for such company to issue any policy of insurance, or to make any contract for the same, or to transact any business under its charter, except to close up its business; and all contracts of insurance and policies issued after such first publication of such notice shall be void and of no binding force, and the person or persons making such contracts or issuing such policy shall be liable, in an action of trover, to the person assured, in double the sum named as premium in such contract or policy, and the Commissioner of Insurance may apply to any circuit court in the State, or if in vacation to any judge



thereof, for an order requiring them to show cause why the business of such company should not be closed and a receiver appointed of its assets and funds, and the court or judge shall thereupon proceed to hear the allegations and proofs of the respective parties; and in case it shall appear to the satisfaction of such court, or the judge thereof, on the hearing of such proofs, that the assets and funds of such company are not sufficient, as aforesaid, or that for any cause such company is not entitled to transact business in this State, the said court or judge thereof shall decree a dissolution of such company, and a distribution of its effects. The said court or judge thereof shall have power to refer the application of the Commissioner of Insurance to a referee, to inquire into and report upon the facts stated therein. Upon any such investigation before such court, judge, or referee, the report of the persons appointed by the Commissioner of Insurance to examine into the affairs of such company shall be *prima facie* evidence of the facts therein contained. The corporate existence of such company may be proved, if necessary, by a copy of the articles of association, with a certificate of the Commissioner of Insurance attached, that such copy is a duplicate of the copy on file in his office. It shall be the duty of the procuring attorney of the county where such proceedings are instituted, on application of the Commissioner of Insurance or the Attorney-General, to appear for the people and prosecute the same. (*Ibid*, § 26, as amended by laws of 1871, Act No. 92.)

**43.** Any company receiving the aforesaid requisition from the said Commissioner of Insurance, shall forthwith call upon its stockholders for such amounts as will make its capital equal to the amount fixed by the charter of said company; and in case any stockholder of such company shall refuse or neglect to pay the amount so called for, after notice personally given or by advertisement, in such time and manner as the said Commissioner of Insurance shall approve, it shall be lawful for the said company to require the return of the original certificate of stock held by such stockholder, and in lieu thereof to issue new certificates for such number of shares as the said stockholder may be entitled to in the proportion that the ascertained value of the funds of the said company may be found to bear to the original capital of the said company; the value of such shares for which new certificates shall be issued, to be ascertained under the direction of the said Commissioner of Insurance, and the company paying for the fractional parts of shares; and it shall be lawful for the directors of such company to create new stock and dispose of the same, and to issue new certificates therefor, to an amount sufficient to make up the original capital of the company. (*Ibid*, § 27.)

**44.** And it is hereby declared that in the event of any additional losses accruing upon new risks, taken after the expiration of the period limited by the said Commissioner of Insurance in the aforesaid requisition for the filling up of the deficiency in the capital and assets of such company, and before said deficiency shall have been made up, the directors shall be individually liable to the extent thereof. And if, upon such examination, it shall appear to the said Commissioner of Insurance that the assets of any company chartered on the plan of mutual insurance under any law of this State, are insufficient to justify the continuance of such company in business, it shall be his duty to proceed in relation to such company in the same manner as is herein required in regard to joint stock

companies; and the trustees or directors of such company are hereby made personally liable for any losses which may be sustained upon risks taken after the expiration of the period limited by the said Commissioner of Insurance for filling up the deficiency in the capital and assets of such company, and before such deficiency shall have been made up. Any transfer of the stock of any company, organized under this act, made during the pending of any such investigation, shall not release the party making the transfer from his liability for losses which may have accrued previous to the transfer. All the provisions of section twenty-six of this act shall apply to any company chartered on the plan of mutual insurance under the laws of this State; and whenever it shall appear to the said Commissioner of Insurance that the affairs of any company not incorporated by the laws of this State are in an unsound condition, he shall revoke the certificates granted in behalf of such company, and shall cause a notification thereof to be published in some paper of general circulation in this State for *four weeks*; and the agent or agents of such company are, after such *notice*, required to discontinue the issuing of any new policy, and the renewal of any previously issued; and the agent or agents of any such company not incorporated by the laws of this State, who shall issue any new policy, or make any contract for the same, after such publication, shall be liable in an action of trover to the persons assured in double the sum named as premium in such policy or contract. (*Ibid*, § 28, *as amended by laws of 1871, Act. No. 92.*)

**45.** Every penalty provided for by this act, or by any other act heretofore enacted by the legislature of this State relating to insurance, shall be sued for and recovered in the name of the people by the prosecuting attorney of the county in which the company or the agent or agents so violating shall be situated; one-fourth of said penalty, when recovered, shall be paid to the party making the complaint, and the remainder shall be paid into the treasury of said county; and in the case of the non-payment of such penalty the party so offending shall be liable to imprisonment for a period not exceeding six months, in the discretion of any court having cognizance thereof; such penalties may also be sued for and recovered in the name of the people, by the Attorney-General, and, when sued for and collected by him, shall be paid into the State Treasury. (*Ibid*, § 29, *as amended by laws of 1871, Act No. 92.*)

**46.** All companies incorporated under this act may provide, in their articles of association, for not more than thirty years' duration; but the legislature may at any time alter, amend, or repeal this act, and provide for the closing up of the business and affairs of any company formed under it. (*Ibid*, § 30.)

**47.** The certificates of authority required by section twenty-three of this act, and all necessary duplicates and copies, shall be furnished to the several companies by the Commissioner of Insurance without charges or fees, but every County Clerk may demand and receive for every such certificate filed in his office under this act the sum of twenty-five cents. (*Ibid*, § 31, *as amended by laws of 1871, Act No. 92.*)

**48.** The necessary expenditures of any examination made or ordered to be made by the Commissioner of Insurance under this act shall be certified to by him, and paid on his requisition, by the company which is the subject of such examination, not exceeding five dollars per day and expenses; *Provided*, That cost and expenses

of the examination of any company incorporated under the laws of any other State, or any foreign government, the central or general office of which is outside this State, shall be certified by the Secretary of State to the Auditor-General as proper and reasonable, and upon the receipt of such certificate the Auditor-General shall draw his warrant for the same, payable out of the general or contingent fund of the State, and the State Treasurer, on the presentation of any such warrant, is hereby authorized and directed to pay the same. (*Ibid*, § 32, as amended by laws of 1871, Act No. 92; also see § 7 of Act No. 108 of 1871, "to establish an Insurance Bureau.")

**49.** It shall not be lawful for any company organized upon the mutual plan, to do business and take risks upon the stock plan; neither for a company organized as a stock company, to do business upon the plan of a mutual insurance company. (*Ibid*, § 33.)

**50.** Any fire insurance company, association, or partnership incorporated by or organized under the laws of any other State, or any foreign government, doing business within this State, shall, as a condition precedent to the renewal of an annual certificate by the Commissioner of Insurance, make and file in the office of the State Treasurer, annually, in the month of January of each year, on oath or affirmation, a statement of the number of fire policies issued by its agents, and procured by or written for sub-agents, solicitors, or brokers, upon property owned by residents of, or situate in the State of Michigan; also, a like statement of the marine insurance business transacted in the State of Michigan, and the gross amount of premiums received or secured thereon, during the year then terminated; and shall pay into the hands of the State Treasurer a specific tax of three per cent. on the gross amount of all premiums received in money or securities during the said year, which said specific tax may be recovered from any company neglecting or refusing to pay the same, in any court at the suit of this State, and shall be and hereby is appropriated to the same uses and purposes as the specific tax on such corporations are or hereby after may be; and it shall be the duty of the State Treasurer to give his receipt for all moneys paid into the State treasury under the provisions of this act. (*Ibid*, § 34, as amended by laws of 1871, Act No. 92.)

**51.** Every insurance company organized under the laws of, or doing business in this State, shall conform to all the provisions of this act, applicable thereto, on or before the thirty-first day of January, 1870, and, when necessary, any existing company shall change its articles of association and by-laws, so as to conform hereto, by a vote of a majority of its board of directors; and any president, secretary, or other officer of any company organized under the laws of Michigan, or any officer, agent, or person doing or attempting to do business in this State for any insurance company organized without this State, failing to comply with any of the requirements of this act, or violating any of the provisions thereof shall be deemed guilty of a misdemeanor, and, upon conviction thereof shall be fined in a sum not exceeding one thousand dollars, and be imprisoned in the county jail for a period of not less than thirty days nor more than six months. (*Ibid*, § 35.)

**52.** If any stock company, or any company organized under the plan of mutual insurance under this act, or the act or acts of which this is amendatory, shall, by means of any advertisement, notice, or statement printed in any newspaper, or by means of any written or printed, or partly written and partly printed notice, circular,

or handbill, or by any agent, or other person acting for said company, or by other means, falsely represent, publish, or hold out to the public that the capital stock of such company, or the stock or guaranty capital of any such mutual company is greater, or of a larger amount, than the actual cash market value of such capital stock or guaranty capital, every director, officer, or agent of such company guilty of any participation therein shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished as provided in section thirty-five of this act; and if any such company, after any such false statement or representation, notice, advertisement, or circular shall have been given out, circulated, or published, shall receive any money, note, or obligation for the payment of money from any person, as a consideration for any insurance made, or policy issued or to be issued by such company, the directors, officers, or agents of such company shall be deemed to have obtained such money, note, or obligation by false pretenses, designedly, with intent to defraud or cheat the person paying such consideration, and shall be punished the same as persons guilty of obtaining property or money by false pretenses, designedly, with intent to defraud or cheat another, and shall also be liable in damages to the person from whom the money, note, or obligation was obtained, in an action in the case for double the amount of the money, and note or obligation so obtained, and shall also be jointly and severally liable to the person insured, to pay all losses covered by such insurance; *Provided*, That the said company may proceed with its business, receiving money, issuing policies, whenever the Circuit Judge for the judicial circuit where the office of said company is located shall certify, from proof adduced before him, either that such publication was by mistake, or that the directors, officers, or agents making the same have been dismissed from the service of the said company, and whenever, also, the said company shall publish such true statement of its affairs as the said Circuit Judge shall direct. (*Ibid*, § 36.)

**53.** The provisions of this act shall not apply to farmers' mutual insurance companies, which insure farm buildings and contents solely, as now organized, or that may hereafter be organized under act No. 262 of Session Laws of 1859, and the acts amendatory thereof relative to insurance companies, but such companies shall continue to be subject to the provisions of Act No. 262 of the laws of 1859, approved February 15, 1859, entitled "An act for the incorporation of insurance companies, and defining their powers and duties," and the acts amendatory thereof. (*Ibid*, § 37.)

**54.** Any persons required by the provisions of this act to take any oath or affirmation, who shall make any false oath or affirmation, shall be deemed guilty of perjury. (*Ibid*, § 38.)

**55.** Any company formed under this act shall have the power to amend its articles of association at any regular meeting of the stockholders or members called by the directors for that purpose; but notice of such meeting, and of the purpose for which it is called, shall be served on each of the stockholders, or, if it is a mutual company, on each of the members, either personally or by directing the same through the post-office, to the last known post-office address of such stockholder or member, at least three weeks previous to such meeting. But such amendments shall not take effect until submitted to the Attorney-General, and certified by him not to conflict with the constitution or laws of this State, nor until a copy thereof, signed by the president and secretary of the company, shall be filed



in the office of the Secretary of State, and of the county clerk where the original articles were filed. (*Laws of 1871, Act No. 92, § 2.*)

**56.** It is hereby made the duty of the Commissioner of Insurance to calculate the reinsurance reserve for every fire and fire-marine insurance company organized under the laws of this State or doing business therein, by taking fifty per cent. of the premiums received on all unexpired risks that have less than one year to run, and a *pro rata* of all premiums received on risks that have more than one year to run; *Provided*, That when the reinsurance reserve, calculated as above, is less than forty per cent. of all the premiums received during the year, the reinsurance reserve in any such case shall be the whole of the premiums received on all unexpired risks; *Provided, further*, In the case of perpetual risks or policies, the whole amount of the deposit or premium paid by the assured shall be deducted; and *Provided, further*, That no installment, part-paid, or other notes shall be accepted or allowed as assets in calculating the reinsurance reserve of any fire insurance company organized or doing business upon the stock plan; and in marine and inland insurance he shall charge all the premiums received on unexpired risks as a reinsurance reserve. (*Laws of 1873, Act No. 149.*)

### LIFE INSURANCE COMPANIES.

**57.** Any number of persons not less than thirteen may associate together and form an incorporated company, for the purpose of making insurance upon the lives of individuals, and every insurance pertaining thereto, and to grant, purchase, and dispose of annuities. Every company organized under this act shall have authority to reinsure any risk herein authorized to be undertaken by them, and to grant reinsurance upon any similar risk undertaken by any other company, but shall not have power to undertake marine and fire risks, or any other species of insurance whatever, except upon lives, or to be in any way connected in their business with any company undertaking other risks than upon the lives of individuals. (*Laws of 1869, Act No. 77, § 1.*)

**58.** The persons so associating shall subscribe articles of association, which shall contain:

*First.*—The names of the associates, and their places of residence respectively;

*Second.*—The name by which the corporation shall be known, and the place where its principal office for the transaction of business is to be established, and the period for which it is to be incorporated;

*Third.*—The purposes of the incorporation, as mentioned in the first section of this act;

*Fourth.*—The manner in which the corporate powers are to be exercised; the number of directors and other officers, and the manner of electing the same, and how many of the directors shall constitute a quorum, and the manner of filling all vacancies;

*Fifth.*—The amount of the capital stock, if any, and what proportion is to be paid in before the corporation shall commence business;

*Sixth.*—The time for the holding of the annual meetings of the corporation; and,

*Seventh.*—Any terms and conditions of membership therein which

the corporators may have agreed upon, and which they may deem important to have set forth in such articles.

And the said corporators shall publish a copy of said articles, with notice of their intention to become incorporated under the same, in some newspaper published in the county where their principal office is to be located, once in each week, for at least four weeks before filing such articles, as hereinafter provided; and at the time of filing such articles they shall also file with the Commissioner of Insurance proof of such publication. (*Ibid*, § 2.)

**59.** The persons so associating shall, after having published such articles and notice, open books of subscription to the capital stock of the corporation, and keep the same open until the whole amount specified in the articles shall be subscribed; or if said corporation is to transact business on the mutual plan, then they shall open books to receive propositions and enter into agreements, as hereinafter specified. (*Ibid*, § 3.)

**60.** The capital stock of any stock company organized under this act shall not be less than one hundred thousand dollars, in shares of fifty dollars each, which capital stock may be increased, by a vote of two-thirds of the stockholders present or represented at any regular meeting called for the purpose, to not more than five hundred thousand dollars; and no such stock company, and no company organized to do business on the mutual plan, shall be authorized to issue policies, or assume any risks whatever, until they shall have deposited with the State Treasurer, as security for any liability to insured parties, stocks or bonds of this State or of the United States, to the amount, in par value, exclusive of interest, of not less than one hundred thousand dollars, which stock or bonds shall be retained by the State Treasurer and disposed of as hereinafter directed; *Provided, however*, That personal obligations, secured by first mortgages on real estate within this State, worth, exclusive of all buildings, at least double the amount of the lien, and bearing an interest of not less than seven per centum per annum, may be received by the State Treasurer, instead of bonds or stocks, to the amount of not exceeding fifty thousand dollars; but any examination by the State Treasurer, or under his direction, to satisfy him respecting the title or value of the property mortgaged, shall be at the expense of such company; and no mutual insurance company shall commence business, by issuing policies, until they shall have received at least five hundred applications for insurance, on which the premiums shall amount to at least five thousand dollars, nor until the examination by the Attorney-General and Commissioners, as hereinafter provided. (*Ibid*, § 4.)

**61.** The articles of association shall be submitted to the Attorney-General for his examination, and if found by him to be in compliance with this act, he shall so certify to the Commissioner of Insurance, and the Commissioner of Insurance shall thereupon appoint three disinterested persons residing in the county where the principal business office of the corporation is proposed to be established, who shall certify, under oath, if they find such to be the fact, that the provisions in the articles of association, in respect to capital stock, as shown to them to have been fully complied with; and if the company is organized to do business on the mutual plan, that the company is in the actual possession of the applications for insurance hereinbefore provided for, and that it was shown to them by the affidavit of the president and secretary of the company that

such applications have been taken in good faith, and not merely colorably, and that such officers believe it to be the intention of each of the applicants to receive and pay for policies thereon when the company shall be prepared to issue the same. A copy of the articles of association, together with such certificate and affidavit, shall thereupon be filed with the Commissioner of Insurance, and another copy of the articles and a copy of such certificate and affidavit with the county clerk of the county in which the company's principal office is to be established; and the filing of the same with such officers, and the deposit with the State Treasurer of the stocks or bonds and mortgage securities, as hereinbefore provided, shall be the authority of the company to commence business and issue policies. (*Ibid*, § 5.)

**62.** Whenever it shall be necessary, in any legal proceedings, to prove the corporate existence of any such company, a copy of the articles of association, with a certificate by the Commissioner of Insurance attached, that such copy is a duplicate of the copy on file in his office; that the certificate and affidavit required to be filed by examining commissioners are also on file in his office, and that it has been made to appear to him, by the certificate of the proper county clerk, that another copy of such articles has been duly filed in the office of such clerk, and by the certificate of the State Treasurer, that the securities required to be deposited with him have been deposited, shall be *prima facie* evidence of the corporate existence of the company; and except in proceedings by or under the authority of the State, to question its corporate right, by information in the nature of a *quo warranto*, or otherwise, shall be conclusive evidence of the authority of the company to issue policies and transact business as contemplated by its articles, until such authority has been terminated by the expiration of the term of incorporation, or on some one of the grounds hereinafter specified. (*Ibid*, § 6.)

**63.** No company formed under this act shall purchase or hold any real estate, except—

*First.*—Such as shall be necessary for its immediate accommodation in transacting business; or,

*Second.*—Such as shall have been conveyed or mortgaged to the company in good faith, by way of security for debts; or,

*Third.*—Such as shall have been conveyed to the company in satisfaction for debts; or,

*Fourth.*—Such as shall have been purchased at sales upon judgments, decrees, or mortgages in favor of such company, or held or owned by it;

And all real estate obtained by virtue of any provisions of this section, except that mentioned in the first subdivision, shall be sold or disposed of within five years after the title has been perfected in such company. (*Ibid*, § 7.)

**64.** The directors of any company organized under this act shall have power to make such by-laws, not inconsistent with the constitution and laws of this State, or with their articles of association, as they may deem necessary for the government of the officers and members of the company and the conduct of its affairs. (*Ibid*, § 8.)

**65.** The bonds or stocks and mortgage securities deposited by any such company with the State Treasurer shall be held by him as security for policy-holders in such company; but, so long as it continues solvent, the company shall have the right from time to

time to collect and receive the dividends or interest thereon, and to withdraw any of the same, on depositing with the State Treasurer other securities of the kinds specified, so that the amount in his hands for the security of policy-holders, at any time, shall not be less than one hundred thousand dollars, exclusive of interest. If at any time a claim shall be made against any such company on one of its policies, and the same shall not be adjusted and paid, and the claimant shall recover judgment thereon against the company, the State Treasurer, on being served with an affidavit by the claimant or his attorney, setting forth the recovery of the judgment, and that the same has remained unpaid for three months, and that no proceedings are pending for the review or reversal of the same, shall proceed to sell, at the current market value, sufficient of the stocks or bonds so deposited with him, to satisfy the amount of such judgment, together with one per centum for his services and expenses; or, if said stocks or bonds shall previously have been disposed of for the satisfaction of claims, then he shall proceed to collect sufficient of the mortgage securities to pay the amount of the claim mentioned in such affidavit, with his reasonable costs and expenses; and said company, after notice of the service of such affidavit, shall not be at liberty to issue any new policies until any deficiency of securities caused by the necessity of meeting such claims shall have been made good by further deposit with said State Treasurer of the like securities; *Provided, however,* That if any such company shall become insolvent, and proceedings shall be taken in equity with a view to its dissolution, nothing in this section contained shall prevent an equal and just distribution of all its assets, including the securities so deposited with the State Treasurer, among the persons equitably entitled thereto. (*Ibid*, § 9.)

**66.** No company organized or existing under any authority whatsoever, other than the statutes of this State, shall be at liberty to transact the business of life insurance within this State until such company, in addition to the requirements now made by law, shall have deposited with the State Treasurer one hundred thousand dollars of the like securities required to be deposited by companies formed under this act, which shall be held as security for any losses suffered by policy-holders therein, upon the same terms and conditions, and with the same authority of sale or collection to satisfy judgments as are set forth in the last preceding section; and any person who shall solicit and obtain within this State applications for insurance upon lives, or issue policies of insurance upon lives, or contracts, guarantees, or pledges for the payment of annuities, or endowments to families, or representatives of policy or certificate-holders, in any company not organized under the statutes of this State before such securities are deposited, shall be liable to a penalty of one hundred dollars for every application obtained, policy issued, or contract, guaranty, or pledge made, to be sued for and recovered in the name of the people by the Attorney-General or prosecuting attorney of the proper county, either by action for debt or criminal prosecution; and any person who shall have paid to any agent of such company any premium moneys before such securities are deposited, shall be entitled to recover the same back from such agent, or at his option from the company, by action of assumpsit, to be brought at any time within six years after such payment; *Provided, however,* That when, by the statutes of any other State, life insurance companies organized or doing business therein are re-



quired to keep on deposit with the State Treasurer, or other State officer, securities for the protection of policy-holders generally, and any such company shall furnish to the Commissioner of Insurance of this State the certificate of the proper officer of such other State, showing the amount and character of the securities so deposited with him, and it shall appear therefrom that the said securities are equal in market value and availability to one hundred thousand dollars of the interest-bearing bonds of this State, and that a portion equal in market value to fifty thousand dollars of the interest-bearing bonds of this State are of State or United States bonds, and it shall further appear from the laws of such other State that the securities so deposited are subject to be made available to satisfy judgments of policy-holders in any manner corresponding to that provided for the care of securities deposited under this act, the Commissioner of Insurance shall thereupon be authorized to issue to such company an authority or license to transact the business of life insurance within this State without any such deposit of securities with the State Treasurer of this State as is above provided. (*Ibid.*, § 10, as amended by Laws of 1871, Act No. 80, § 1.)

**67.** It shall be the duty of the president, or vice-president and secretary, or actuary, or a majority of the directors or trustees of any life insurance company transacting business within this State, annually, in the month of January, to prepare, under oath, and deposit with the Commissioner of Insurance, a statement, showing:

*First.*—The number of policies issued during the year.

*Second.*—The amount of insurance effected thereby.

*Third.*—The amount of premiums received during the year, and what portion thereof was received within this State, or on risks upon the lives of persons resident therein.

*Fourth.*—The amount of interest and other receipts, specifying the items.

*Fifth.*—The amount of losses paid during the year.

*Sixth.*—The amount of losses claimed which remain unpaid, and what portion thereof are disputed, and the ground on which the company disputes the same.

*Seventh.* The expenses for the year, stating separately the sum paid to officers as salary, fees, or other compensation.

*Eighth.*—The whole number of policies in force.

*Ninth.*—The amount of liabilities or risks on such policies, and of all other liabilities.

*Tenth.*—The amount of the capital stock, and how much thereof is paid in.

*Eleventh.*—The amount of accumulation, specifying whether received upon insurance, annuities, or how otherwise.

*Twelfth.*—The amount of assets, and manner in which they are invested, specifying the amount in real estate, on bond and mortgage, stocks, loan on stocks, premium notes, or other securities, and the cash or market value thereof.

*Thirteenth.*—The amount of dividend, if any, declared in favor of policy-holders, and what proportion thereof has been paid, and also the amount of dividend, if any, declared in favor of stockholders, and what proportion thereof has been paid.

*Fourteenth.*—A tabular statement of the policies in force for the whole term of life, showing how many thereof for each age of life, and for what amount of risk, were issued or in force for the first

year of the existence of the company, during the second year, and so on up to the time of making such statement.

*Fifteenth.*—A tabular statement of the policies in force for a shorter period than the whole term of life, showing how many thereof for each age of life, and for what amount of risk, were issued or in force during the first year of the existence of the company, during the second year, and so on up to the time of making such statement. And the Commissioner of Insurance shall prepare and furnish to every company applying therefor, printed forms for the statements herein required; and no company in default in making such statement shall receive any application or issue any policy of insurance, while so in default, under a penalty of one hundred dollars for every such application or policy, to be recovered of the agent or officer taking or issuing the same, in the same manner that the penalties heretofore provided for are recovered; and any person paying any premium money to such company, or to any agent thereof, upon application made, or policy issued, while the company is so in default, shall be entitled to recover the same from such company, or, at his option, from the agent securing the same, in an action of assumpsit. It shall be the duty of the Commissioner of Insurance to arrange the information contained in the statements required in this section, in tabular form or abstracts, and so report the same annually to the Governor, and cause the same to be published in pamphlet form. (*Ibid*, § 11.)

**68.** Whenever the Commissioner of Insurance shall have reason to suspect the correctness of any annual statement, or that the affairs of the company making the same are in an unsound condition, it shall be his duty to cause an examination to be made into the books, papers, and securities of such company, at its expense, and for that purpose he shall be vested with power to examine under oath any of the officers or agents of such company, relative to the business and assets thereof, and to make any other or further inquiries necessary for obtaining full information of its condition; and if in his opinion the condition of the company is such as to render it improper that it should continue to issue policies in this State, he shall have the power to revoke the license of such company; and whenever he shall deem it for the public interest so to do, he shall publish the result of such investigation in such newspaper as he shall select, or if the company is one organized under the laws of this State, then in some newspaper published in the county where the principal business office of the company is located, and he shall call the attention of the Attorney-General to the information obtained, whose duty it shall be to apply to the Supreme Court for an order requiring the company to show cause why their business within the State should not be closed, and such court may give direction for the hearing of the proofs and allegations of the parties; and in case it shall appear to the satisfaction of the court, from said proofs and allegations, that the assets and funds of the company are not sufficient to warrant its continuing to issue policies, the said court shall make an order prohibiting such company from issuing any further policies, and it shall thereupon become unlawful for the company, or any of its agents or officers, to receive any further applications, or to issue any further policies, or make any further contracts of insurance. The securities so deposited with the State Treasurer shall remain in his hands, notwithstanding the company may cease or be prohibited to do business within the State, and shall only be with-

drawn on the order of the Supreme Court, or when the officers of the company shall show by affidavit to the satisfaction of the Commissioner of Insurance and State Treasurer that the risks for which the company remains liable, and for the security of which the same are held, are less than the securities so deposited, in which case the company may be permitted to withdraw the surplus securities over and above the risks which then remain. (*Ibid*, § 12, as amended by laws of 1871, Act No. 80, § 2.)

**69.** Any false statement in any report required to be made under this act, or any statement so made as fraudulently to conceal the real facts, if intentionally so made, shall, if the company be organized under the laws of this State, be cause of forfeiture of the corporate franchises, and if the company be organized under the laws of any other State or government, be cause of forfeiture of the right to transact business within this State, and such forfeitures may be declared by the Supreme Court, in any proper proceeding instituted by the Attorney-General for the purpose; and any officer or agent guilty of any such false or fraudulent statement, or of any intentional violation of the provisions of this act, or who shall aid or abet others in any such violation, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by fine not exceeding one thousand dollars, or by imprisonment in the county jail not exceeding three months, or by both such fine and imprisonment; and it shall be the duty of the Commissioner of Insurance to notify the prosecuting attorney of the proper county, of any offense under this act which may come to his knowledge, and it shall thereupon become the duty of such prosecuting attorney to cause proceedings to be taken for the punishment thereof. (*Ibid*, § 13.)

**70.** All companies formed under this act shall be deemed bodies corporate and politic, and shall be subject to all the provisions of the general laws of this State regarding corporations, so far as the same may be applicable; and they may maintain all proper suits at law and in equity against their members and stockholders, or any other person or persons, and be liable to be sued on any obligation they may have assumed, or for any loss which may have occurred, if payment for such loss is withheld more than sixty days after proofs thereof are furnished. (*Ibid*, § 14.)

**71.** Any company formed under this act shall have the power to amend its articles of association, at any regular meeting of the stockholders or members, called by the directors for that purpose. But notice of such meeting and of the purpose for which it is called shall be served on each of the stockholders, or, if it is a mutual company, on each of the members, either personally or by directing the same through the post-office, to the last known post-office address of such stockholder or member, at least three weeks previous to such meeting. But such amendments shall not take effect until submitted to the Attorney-General, and certified by him not to conflict with the Constitution or laws of this State, nor until a copy thereof, signed by the president and secretary of the company, shall be filed in the office of the Commissioner of Insurance and of the County Clerk where the original articles were filed; and any company heretofore organized to transact the business of life insurance under any prior law of this State, may reorganize under this law, and have the benefit of all its provisions, by a vote of the stockholders, or, if it be a mutual company, then by a vote of the mem-

bers called for that purpose, in pursuance of its present articles, on entering into new articles of association, signed by its charter officers, setting forth the particulars required by the second section of this act, and filing a copy of such articles with the Commissioner of Insurance and the proper County Clerk, after such a certificate of the Attorney-General has been obtained, as is required when articles are amended; and such company, in so reorganizing, shall be at liberty to make any change in its mode of doing business, not inconsistent with the provisions of this act, and to increase its capital stock, or to retire any guaranteed capital stock, as the stockholders or members may seem fit; but in so reorganizing they shall be subject to all the provisions of this act in regard to the deposit of securities, and to all its other provisions, in the same manner and to the same extent as if such company had not previously had a corporate existence. (*Ibid*, § 15.)

**72.** All insurance companies insuring life within this State, and not deriving corporate existence from its laws, shall annually, at the time of filing their annual report with the Commissioner of Insurance, pay to the State Treasurer a tax of two per centum on all premiums received in cash or otherwise, by such companies or their agents within this State, or from insured parties residing therein during the preceding year; and in case of neglect or refusal of such company to pay such tax within ten days after the filing of such report, the State Treasurer may proceed to collect the same out of the interests or dividends on any securities that such company may have deposited with him, as hereinbefore provided; and in case no such securities are deposited, then it shall not be lawful for the company in default to receive any application for insurance or to issue any policy until such tax is paid; and any agent or officer receiving any such application or issuing any such policy while such default continues shall be liable to a penalty of one hundred dollars, to be collected in the same manner with the other penalties hereinbefore provided, and the specific tax herein provided for shall be in lieu of all other taxes in this State. (*Ibid*, § 16, as amended by laws of 1875, Act No. 223.)

**73.** No policy of insurance on life, issued after this act shall take effect by any company organized under the laws of this State, shall be forfeited or become void by the non-payment of any premium thereon, after the first, any further than as follows: The net value of the policy when the premium becomes due and is not paid, shall be ascertained, according to the "American Experience Table" rate of mortality, with interest at four and one-half per centum per annum. Three-fourths of such net value shall be considered a net single premium of the whole life insurance, and the amount it will insure shall be determined according to the age of the party at the time when the unpaid premium became due, and the assumption aforesaid in regard to interest and rate of mortality; but if no application be made to the company for such paid-up policy within one year after default shall have been made in payment, then all liability on the part of the company on the policy on which the party is in default shall cease. (*Ibid*, Act No. 77, § 17.)

**74.** Every company doing a business of life insurance within this State shall annually, in the month of January, furnish to the Commissioner of Insurance the data necessary for determining the amount of all its liabilities; and the valuation of all its outstanding policies, to be made by the Commissioner of Insurance, or under his



authority; and in making such valuation, the rate of interest to be assumed shall be four and one-half per centum per annum, and the rate of mortality shall be that established by the "American Experience Life Table," as shown in the schedule hereto annexed; and such company shall pay to the Commissioner of Insurance, as a compensation for such estimate, one cent for each thousand dollars insured; *Provided*, That where, by the laws of any other State, an annual valuation is required to be made by an Insurance Commissioner or other State officer, the official certificate of any such Commissioner or officer, being filed with the Commissioner of Insurance, and showing the annual official valuation of the policies of any company doing business within such State, and showing also the basis of such valuation, shall be sufficient, and stand in the place of any valuation of the policies of such company by order or under the directions of the Commissioner of Insurance of this State; but no company shall be permitted to transact business within this State, unless the amount of its assets shall equal the net value of all its outstanding obligations, as determined according to the assumptions in regard to the rates of interest and mortality as hereinbefore provided; and in case the assets of any company transacting business within this State shall at any time be less than is required by the provisions of this act, the Commissioner of Insurance shall serve a written notice upon the person designated by such company to receive service of process under the laws of this State, or shall address such notice by mail to the principal office of such company, and publish the same at least three times in some newspaper circulated daily in this State; and if, after the expiration of ten days from the service or publication of such notice, any agent or officer of such company shall receive applications for policies, or issue policies, while such deficiency of assets exists, and the cost of giving such notice remains unpaid by such company, he shall be subject to the penalties provided in section ten of this act; *Provided further*, That when the certificate of the Commissioner of Insurance of the official valuation of the policies issued by any company organized under the laws of this State, shall not be accepted by any other State in lieu of a valuation of the same by the insurance officer of such other State, then all companies organized under the laws of such other State shall be required to have a separate valuation made under the authority of the Commissioner of Insurance of this State, as herein provided. (*Ibid*, § 18.)

**75.** If any company insuring life within this State shall, by means of any advertisement, circular, notice or statement, printed or written, published, posted, or circulated through and by the agency of any officer, agent, or other person, or by any other means, falsely represent or hold out to the public that the capital stock of such company is greater than its actual amount, or that the accumulation of such company is greater than its actual cash or market value, every director, officer, or agent of such company guilty of any participation therein shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding one thousand dollars, or by imprisonment in the county jail not exceeding three months, or by both such fine and imprisonment, in the discretion of the court; and if any such company, after any such false advertisement, circular, notice, or statement shall have been published, posted, or circulated, shall receive any money, note, or obligation for the payment of money, from any person as a consideration

for any insurance made or policy issued or to be issued by such company, such money, note, or obligation shall be deemed and taken to have been received without consideration; and the directors of such company, and any officer or agent receiving the same, shall be jointly and severally liable in an action of assumpsit for the repayment thereof, and shall also, in like manner, be liable to the person insured, for the amount of the insurance. And any such false advertisement, circular, notice, or statement shall be sufficient ground for proceedings on the part of the Attorney-General, in the Supreme Court, for a forfeiture of the chartered privileges of such company, or for an order prohibiting the further transaction of business by it within this State; *Provided*, That no such forfeiture shall be declared on that ground, solely, if it shall appear either that the publication was by mistake, or that the directors, officers, or agents making the same have been dismissed from the service of such company, and that the company has published such true statement of its affairs as may have been directed by the Attorney-General, or such court. (*Ibid*, § 19.)

**76.** Any physician who, as medical examiner for any such company, or as the reference of, or medical examiner for, any person seeking insurance therein, shall knowingly make any false statement or report to the company, or any officer thereof, concerning the bodily health or condition of any applicant for insurance, or concerning any other matter or thing which might affect the propriety or prudence of granting such insurance, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be liable to a fine not exceeding one thousand dollars, or to imprisonment in the jail not exceeding three months, in the discretion of the court, and he shall also be liable to the company in an action on the case for the full amount of any insurance obtained from such company by means or through the assistance of such false statement or report. (*Ibid*, § 20.)

**77.** The mortgages authorized to be deposited with the State Treasurer, under this act, shall be made or assigned to him in his name of office, but shall not be subject to assignment or sale by him, except as the company depositing the same may become entitled to receive the same back according to the conditions of this act; but said State Treasurer may enforce the same in his name of office, whenever necessary to pay claims as hereinbefore provided. The custody of any securities by the State Treasurer under this act shall be deemed the custody of the State, and any sale, transfer by hypothecation, or conversion of any such securities by the State Treasurer, or by any officer, clerk, or other person employed in his office, except as authorized by this act, shall be deemed an act of embezzlement, and shall be punished by imprisonment in the State Prison not more than fourteen years, or by fine not exceeding two thousand dollars, or by both such fine and imprisonment, in the discretion of the court. (*Ibid*, § 21.)

**78.** The business of insuring lives within this State, by any private individual, association, or partnership, or by any incorporated company, organized or existing under any authority whatsoever, other than the statutes of this State, is hereby, except as is provided by this act, wholly prohibited; and any person who shall solicit or obtain within this State, applications for insurance upon lives by any such private individual, association, partnership, or incorporated company, contrary to the provisions of this act, shall be liable to a penalty of one hundred dollars for every application ob-

tained, to be sued for and recovered in the name of the people, by the Attorney-General, or prosecuting attorney of the proper county, either by action of debt or criminal prosecution; and any person who shall have paid to any agent of such unauthorized individual, association, partnership, or company, any premium moneys for insurance granted or to be granted, shall be entitled to recover the same back from such agent, or, at his option, from the person, association, partnership, or company for which he acted, by action of assumpsit, to be brought at any time within six years after such payment. (*Ibid*, § 22.)

79. It shall be lawful for any husband to insure his life for the benefit of his wife, and for any father to insure his life for the benefit of his children, or of any one or more of them; and in case that any money shall become payable under the insurance, the same shall be payable to the person or persons for whose benefit the insurance was procured, his, her, or their representatives or assigns, for his, her, or their own use and benefit, free from all claims of the representatives of such husband or father, or of any of his creditors; and any married woman, either in her own name or in the name of any third person as her trustee, may cause to be insured the life of her husband, or of any other person, for any definite period, or for the term of life, and the moneys that may become payable on the contract of insurance shall be payable to her, her representatives or assigns, free from the claims of the representatives of the husband, or of such other person insured, or of any of his creditors; and in any contract of insurance, it shall be lawful to provide that on the decease of the person for whose benefit it is obtained, before the sum insured shall become payable, the benefit thereof shall accrue to any other person or persons designated; and such other person or persons shall, on the happening of such contingency, become the lawful owner or owners of the policy of insurance, and entitled to enforce the same to the full extent of its terms, notwithstanding he, she, or they may not at the time have any such insurable interest as would have enabled him, her, or them to obtain a new insurance. (*Ibid*, § 23.)

80. In case any amendment to the constitution shall hereafter be adopted which shall authorize such corporations to organize for perpetual existence, or for any period longer than that now permitted, any corporation that may be formed or reorganized under this act shall, by a vote of the stockholders or members to that effect, adopted at any annual meeting, or at any special meeting duly called for the purpose, be entitled to the benefit of such constitutional amendment; and its corporate existence shall thereupon and thereby be extended for the period specified in such vote, within the limits of such amendment; and all the contracts and policies of the corporation shall be as valid, binding, and effectual, for all purposes, as if the original term of corporate existence had been the same as prescribed by such vote for the extension thereof. (*Ibid*, § 24.)

81. In case no such constitutional amendment shall be adopted during the corporate existence of any company organized under this law, and in case the stockholders or members thereof shall not, before the expiration of such corporate existence, organize a new corporation for the same purposes, on the basis of receiving the assets of the old corporation and assuming the performance of all its existing contracts and policies, the officers of such corporation, at the expiration of its corporate life, shall be trustees for the purpose of

keeping its funds invested for the security of policy-holders, settling its affairs, and fulfilling and discharging its obligations, and, as such, shall be under the control and direction of the proper circuit court in chancery, or other equity court, as in the case of other trustees; but the officers of such corporation shall not, at the time of the termination of the corporate existence, or in anticipation thereof, make or declare any dividend, or, except in satisfaction of the demands of creditors or policy-holders, make any other disposition of the assets of the corporation, or of any part thereof, which shall leave the available amount of such assets below the amount of existing debts and of the net value of outstanding policies, to be determined as hereinbefore provided; and any such attempted dividend or distribution shall be void, and may be enjoined on the application of the Commissioner of Insurance; and such officers, before entering upon their duties as such trustees, shall give bond to the people of the State to the satisfaction of the Commissioner of Insurance, and be filed with him, conditioned for the faithful discharge of their duties as such; and they shall be at all times subject to the supervision of the Commissioner of Insurance, in the same manner that corporations are under the provisions of this act; but such trustees shall not be at liberty to make dividends among stockholders, nor to members, unless in reduction of premiums on outstanding policies, except under the order of the proper court of equity; nor shall such court be at liberty to order any such dividends as shall at any time reduce the available assets of the company below the amount of existing debts and the net value of outstanding policies, to be determined as hereinbefore provided. (*Ibid*, § 25.)

82. That every life insurance company not organized under the statutes of this State shall, as a condition precedent to doing business in this State, appoint an agent or attorney resident therein, upon whom all lawful process against the company may be served with the like effect as if served upon the company in the manner provided by law, and said appointment shall stipulate and agree, on the part of the company making the same, that service of lawful process against such company upon such agent or attorney shall be valid service upon such company. A copy of such appointment, duly authenticated, shall be filed with the Commissioner of Insurance, and shall not be revoked until the same power is given to another resident, and a like copy filed as aforesaid. Service upon such agent or attorney shall be deemed sufficient service upon the company. (*Laws of 1871, Act No. 80, § 3.*)

83. That whenever the existing or future laws of any other State of the United States shall require of life insurance companies incorporated or organized under the laws of this State, and having agencies in such other State, or of the agents thereof, any payment for taxes, fines, penalties, certificates of authority, license, or other fees, greater than the amount required for such purposes from similar companies of other States by the then existing laws of this State, then, and in every such case, all life insurance companies establishing or having theretofore established agencies in this State, shall be required to pay for taxes, fines, penalties, certificates of authority, license, or other fees, an amount equal to the amount of such charges and payments imposed by the laws of such other State upon the companies of this State and the agents thereof. (*Ibid*, § 4.)



**84.** That all corporations, associations, partnerships, or individuals doing business in this State under any charter, compact, agreement, or statute of this or any other State, involving an insurance, guaranty, contract, or pledge for the payment of annuities or endowments, or for the payment of moneys to families, or representatives of policy or certificate-holders, or members, shall be considered and deemed to be life insurance companies within the meaning of the laws relating to life insurance within this State, and shall not make any such insurance, guaranty, contract, or pledge therein, or to or with any citizen or resident of this State, which shall not distinctly state therein the amount of such life benefits, the manner of payment, the period of the continuance thereof, and the amount of the annual, semi-annual, or quarterly premium, or by which the payment of the life benefit assured shall be contingent upon the payment of assessments made upon surviving members, and not until the securities required of life insurance companies are deposited, nor except in accordance with, and under the conditions and restrictions of the statutes now or hereafter regulating the business of life insurance. And any person soliciting applications for insurance, or making any such insurance, guaranty, contract, or pledge as aforesaid, before the deposit of such securities, or before compliance with any condition precedent provided by the laws of this State for life insurance companies, shall be liable to a penalty of one hundred dollars for every application obtained, or insurance, guaranty, contract, or pledge made, to be sued for and recovered in the name of the people, by the Attorney-General, or prosecuting attorney of the proper county, either by action of debt or criminal prosecution; and any person who may have paid moneys therefor shall be entitled to recover the same back from the person to whom it was paid, or in case such person was an agent, then at his option from the principal of such agent, by action of assumpsit, to be brought at any time within six years after such payment. (*Ibid*, § 5, as amended by laws of 1872, Act No. 55.)

#### MUTUAL FIRE INSURANCE COMPANIES.

**85.** Any number of persons not less than seven may associate together and form an incorporated company for the purpose of mutual insurance of the property of its members against loss by fire or damage by lightning; which property to be insured shall embrace dwelling-houses, barns, accompanying out-buildings and their contents, farm implements, hay, grain, wool, and other products, live stock, wagons, carriages, harness, household goods, wearing apparel, provisions, musical instruments, and libraries, being upon farms as farm property, or in dwellings or in accompanying out-buildings that constitute detached risks in villages and belonging to the members. (*Laws of 1873, Act No. 82, § 1.*)

**86.** Such persons so associating shall file in the office of the Commissioner of Insurance a statement, signed by all the incorporators, stating their purpose of forming a company for the transaction of the business of insurance, as expressed in the first section of this act; which statement shall also comprise a copy of the charter proposed to be adopted by them, and shall publish a notice of such, their intention, once in each week for at least five successive weeks, in a public newspaper in the county in which such company proposed to be located. (*Ibid*, § 2.)

**87.** The persons so associating, after having filed the statement and published the notice as aforesaid, may open books to receive propositions and enter into agreements in manner hereinafter specified; but no company organized by this act shall do any business or take any risks or make any insurance in any more than two counties in this State; which counties shall be contiguous, and shall be named and set forth in their charter and in the statement required by section two of this act. No insurance company organized as aforesaid shall commence business until *bona fide* agreements have been entered into for insurance, with at least one hundred individuals, covering property to be insured to the amount of not less than fifty thousand dollars. (*Ibid*, § 3.)

**88.** No company formed under this act shall purchase or hold any real estate, except—

*First.*—Such as shall be necessary for its immediate accommodation in transacting business; or,

*Second.*—Such as shall have been conveyed or mortgaged to the company in good faith, by way of security for debts; or,

*Third.*—Such as shall have been conveyed to the company in satisfaction for debts; or,

*Fourth.*—Such as shall have been purchased at sales, upon judgments, decrees, or mortgages in favor of such company, or held or owned by it. And all real estate obtained by virtue of any provisions of this section, except that mentioned in the first subdivision, shall be sold or disposed of within five years after the title has been perfected in such company, unless the company shall procure a certificate from the Commissioner of Insurance that the interest of said company will materially suffer by forced sale, in which event the sale may be postponed for such period as the said Commissioner of Insurance shall direct in said certificate, not to exceed ten years in all. (*Ibid*, § 4.)

**89.** In addition to the foregoing provisions, it shall be the duty of the incorporators of any company organized under the provisions of this act to declare in the charter which is hereby required to be filed, the mode and manner in which the corporate powers given under and by virtue of this act are to be exercised, the mode and manner of electing trustees or directors, who shall be citizens of the county or counties in which the company is doing business, the filling of vacancies, the period for the commencement and termination of its fiscal year; and may prescribe therein the liabilities of the members to be assessed toward defraying the losses and expenses of the company, and the mode and manner of collecting such assessments. (*Ibid*, § 5.)

**90.** The charter thus to be filed by the corporation shall be examined by the Attorney-General, and if found to be in accordance with the requirements of this act, he shall certify the same to the Commissioner of Insurance, and said Commissioner may appoint three disinterested persons, residents of the county wherein such corporation is proposed to be formed, who shall certify under oath that it has received and is in actual possession of the premiums or engagements of insurance as the case may be, to the full extent required in this act; *Provided, however*, The Commissioner of Insurance may make such examination personally or by his deputy. Copies of such certificate shall be filed in the office of the Commissioner of Insurance, whose duty it shall then be to furnish the corporation with a certified copy of the charter and certificates

aforesaid, which, upon being filed by them in the County Clerk's office of the county in which such company is located, shall be their authority to commence business and issue policies, and the same may be used in evidence for or against such corporation. (*Ibid*, § 6.)

§1. The corporators, or the trustees or directors, as the case may be, of any company organized under this act, shall have power to make such by-laws, not inconsistent with the constitution or laws of this State, as may be deemed necessary for the government of its officers and members, and the conduct of its affairs. (*Ibid*, § 7.)

§2. It shall be the duty of the president or vice-president and secretary of each company organized under this act, annually, on the first day of January, or within one month thereafter, to prepare, under their own oath, and deposit in the office of the Commissioner of Insurance, a statement of the condition of such company on the thirty-first day of December then next preceding, exhibiting the following facts and items, namely:

*First.*—The number of members, December thirty-first of the previous year; the number of members added during the year; the number of members who have withdrawn, or whose policies have been canceled during the year, and the number of members belonging to the company.

*Second.*—The amount of property at risk December thirty-first of previous year; the amount of risks added during the year; the amount of risks canceled, withdrawn, or terminated during the year; and the net amount at risk by the company.

*Third.*—The amount of premium or deposit notes in force; the amount of cash premiums (or assessments) actually on hand; the amount of outstanding assessments not canceled; the nature and amount of all other resources; the total amount of resources.

*Fourth.*—The claims for losses due and payable; the claims for losses not matured; the claims for losses resisted; the nature and amount of all other claims due or accrued, and the total amount of liabilities.

*Fifth.*—The amount of premiums on deposit notes taken during the year; the amount of cash premiums received during the year; the amount collected on assessments which were levied during the year; the amount collected during the year on assessments which were levied in prior years; the amount received from membership or policy fees, or from any other sources constituting an expense to [the] insured; the amount received from percentage on increased or decreased insurance; the income from all other sources; and the total income.

*Sixth.*—The amount paid for losses during the year, stating the amount of same which was for losses of previous years; the amount of salary and fees paid to officers and directors; the amount of all other expenditures during the year; and the total expenditures during the year. (*Ibid*, § 8.)

§3. A copy of every such sworn statement and report shall, in said month of January, be filed in the office of the County Clerk of the county where the principal business office of the company is located, and another copy thereof shall be published at least twice during said month in a newspaper printed in such county; and the persons or officers making such sworn statement or report to be filed in the office of the Commissioner of Insurance as aforesaid, shall make and annex thereto and file therewith, in the office of the Com-

missioner of Insurance, an additional affidavit, showing that such report and statement has been published, and a copy thereof filed in the office of the County Clerk as above provided; and if, upon examination of such annual statement or the examination of the company hereafter provided for, it shall appear to the Commissioner of Insurance that the losses and expenses of any company chartered under this act have, during the year, exceeded the cash premiums and assessments collected to such an extent as to imply a doubt in the mind of said Commissioner of Insurance as to the solvency of said company and its ability to pay all its losses and other debts, it shall be the duty of said Commissioner of Insurance to serve a notice upon the officers of such mutual company requiring them, at the expiration of sixty days from the date of such notice, to discontinue the issuing of policies and proceed to wind up its business, unless within that time the directors of such company shall collect assessments and pay such losses and debts. (*Ibid*, § 9.)

**94.** In case any company shall continue to issue policies after the expiration of the sixty days, they having failed to comply with the requirements of the Commissioner of Insurance in said notice, or if any company having failed to make their annual report to the Commissioner of Insurance, at the time and in the manner herein prescribed therefor, shall thereafter issue any policy or make any insurance; or if such report to the Commissioner of Insurance shall be imperfect or contain false statements, or shall be so made as fraudulently to conceal the actual condition or responsibility of the company, the directors and officers of such company shall be, jointly and severally, personally liable and responsible for any losses that may thereafter occur in said company, or to any person insured therein or thereby; and the persons sustaining such losses may sue for and recover the amount of such losses from such directors and officers, or from any one or more of them. (*Ibid*, § 10.)

**95.** It shall be the duty of the Commissioner of Insurance, on or before the first day of December in each year, to furnish all companies organized under this act, with blanks for the purpose of making thereon the statement hereby required to be filed, which blanks shall be used by the proper officers in making said statements, which statements shall be full and in accordance with the requirements heretofore set forth; and he may, from time to time, make such changes in the form of such statements as shall seem to him best adapted to elicit from the companies a true exhibit of their condition in respect to the several points hereinbefore enumerated. And in case the officers or directors of any company shall fail, neglect, or refuse to perform any of the duties required of them by law, within the time and in the manner prescribed for the performance of such duty, or shall knowingly make or permit any false or imperfect statement to be made in any annual or other report or statement required to be made by them or by any of them or by the company to the Commissioner of Insurance, or shall do or aid or assist in doing anything which any such company is hereby prohibited from doing, or shall in any manner violate any of the provisions of this act, or shall aid in or consent to any violation of any of the provisions of this act, then and in every such case, every director or officer or person so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding one thousand dollars, nor less than five hundred dollars, or by imprisonment in the county jail not less than three



months nor more than one year, or by both such fine and imprisonment, in the discretion of the court; and when such failure, neglect or refusal on the part of the officers of any company is known to the Commissioner of Insurance, it shall be his duty to notify the prosecuting attorney of the county where such company is located, whose duty it shall then be to commence legal proceedings against such officers to enforce the penalty hereby imposed. (*Ibid*, § 11.)

**96.** Suits at law may be maintained by any corporation formed under this act against any of its members for any cause relating to the business of such corporation; also, suit at law may be prosecuted and maintained by any member against such corporation for claims which may have accrued, if payments are withheld more than sixty days after such claims shall have become due. In all cases whereby the charter and by-laws of any company now organized, or which may be hereafter organized under the provisions of this act, and doing business in any county or counties in this State upon applications or agreements, with or without taking from the insured any premium note or notes, it shall be lawful for any such mutual insurance company to make assessments upon such agreements, or the policies issued thereon *pro rata*, according to the amount of such agreements or policies, for the payment of the losses and expenses incurred by such company, and all such premium notes or assessments shall be a lien upon the property insured to the amount of such note or assessments, costs, and interest due thereon. (*Ibid*, § 12.)

**97.** All companies formed under this act shall be deemed bodies corporate and politic in fact and in name, and shall be subject to all the provisions of the statute in relation to corporations so far as they are applicable. (*Ibid*, § 13.)

**98.** Any such company formed under this act shall have power to amend their articles of association or charter, at the regular annual meeting, held according to the provisions of said charter or articles of association, and upon giving a notice of their intention so to do, and of the time and place of meeting for that purpose; such notice shall be published five successive times in some newspaper of general circulation, published weekly in the county or counties where such company does business. Said amendments shall be submitted to the Attorney-General and his certificate of compliance with the law obtained; and said amendments shall be filed in the office of the Commissioner of Insurance, and also with the clerk of the county in which the office of the company is located. (*Ibid*, § 14.)

**99.** If any insurance company, organized or to be organized under this act, shall not, within sixty days after the Commissioner of Insurance shall have given the notice required by section nine, pay up and discharge all outstanding claims against such company, it shall be the duty of the Commissioner of Insurance to file a petition in the circuit court for any county where such company has transacted business, either in vacation or term time, stating that the sixty days within which such company was required to proceed to wind up its business have expired, and that there are outstanding claims against such company, a copy of which said petition shall be published for three successive weeks in a public newspaper printed in such county, or if no newspaper is published

in such county, then such notice shall be published in any paper published nearest the office of such company. (*Ibid*, § 15.)

**100.** It shall be the duty of the Commissioner of Insurance, as often as once in each year, in person or by deputy, to visit and examine into the affairs of any mutual insurance company now organized or hereafter to be organized under this act; and it shall be the duty of the officers or agents of any such company to cause their books to be opened for inspection, and otherwise to facilitate such examination so far as it may be in their power to do; and for that purpose the said Commissioner of Insurance shall have power to examine, under oath, the officers and agents of any company relative to the standing and condition of said company. And all necessary expenses of such examination shall be paid by each company so examined. (*Ibid*, § 16.)

**101.** At any time after the publication required by section fifteen of this act, the Commissioner of Insurance may appear in said court, in person or by counsel, and move for the appointment of a receiver for said company; and the said company may also be heard, and upon such hearing the report of such company filed in the office of the Commissioner of Insurance shall be conclusive evidence of the facts therein stated, and of the liability of such company, unless such company shall show that they have since paid and discharged the liabilities; and if, upon the hearing thereof, it shall appear to such court that the statements in such petition are materially true, the said court shall appoint a receiver for such company, who shall be and is hereby empowered to take possession of all books and papers and personal property of said company, and shall ascertain the amount due from said company on property insured, and shall at once proceed to assess upon all of the members and persons insured in such company such sums of money as will in the aggregate be sufficient to pay all the losses and liabilities of said company, together with the services and expenses of such receiver, according and in proportion to the amount of their insurance or interest in such company; and upon payment of such assessment the said members shall be discharged of and from all former assessments made by such company; and it shall be the duty of said receiver to give notice of such assessment by publishing in some weekly newspaper printed in the county or counties where the office or offices of the company are located, or in the county where such proceedings were had, once in each week for three successive weeks, a general notice, stating therein the aggregate amount assessed in said company; and upon application he shall furnish to any person assessed a statement showing the amount of his assessment; and in case any member or person insured, so assessed, shall neglect for thirty days after such publication to pay the amount of such assessment to said receiver, he may sue for the same in the circuit court wherein he was appointed, and in such cases service may be made upon the persons sued in any county in the State, or at his election the receiver may sue in the circuit court for the county wherein the person assessed, or who is liable to pay such assessment, may reside or be, in an action of debt or assumpsit, in his own name, as receiver of said company; and upon such suit said assessment shall be *prima facie* evidence of the regularity and correctness of all proceedings up to and including the assessment, and of the receiver's right to recover therein the amount assessed, with costs. If the amount realized by such receiver be insufficient to pay the losses.

and liabilities therein, and the services and expenses aforesaid, he shall proceed to make a second assessment, and such further or other assessments as may be necessary to realize the same, in the same manner and with the like effect as is herein provided for making the first assessment; and shall sue for and collect the same in the same manner. If, after paying the losses and liabilities of such company, and the services and expenses aforesaid, there shall remain any funds in the hands of the receiver, the same shall be paid back to the persons assessed, in just and equal proportions to the sums contributed and paid by them. (*Ibid*, § 17.)

**102.** Such receiver shall keep an accurate account of all moneys or other property received by him, and shall pay over all moneys by him collected, and the proceeds of all personal property *pro rata* upon said liabilities, after deducting therefrom for his services and expenses (if the court making such appointment shall deem the amount thereof reasonable). The court making such appointment may also require such receiver to give a bond, with sufficient sureties, in such penal sum as such court shall determine, which said bond shall run to the people of the State of Michigan, and be conditioned for the faithful discharge of his duties as such receiver, and be approved by the clerk or judge of such court; and said court may from time to time require such receiver to make a report, and upon the coming in of his final report, showing a full and faithful performance of such trust, may discharge him from all further liability. It shall also be the duty of such receiver, annually, during the month of January in each year, to make a report to the Commissioner of Insurance, showing the condition and affairs of such receivership on the thirty-first day of December preceding. This act shall be construed as applying to all receivers heretofore appointed, as well as to receivers which may hereafter be appointed under this act. (*Ibid*, § 18.)

**103.** Every mutual fire insurance company heretofore organized under the laws of this State shall conform to all the provisions of this act; but no such company whose organization, articles of association and by-laws already conform to the provisions hereof shall be required to reorganize. (*Ibid*, § 19.)

## MUTUAL MARINE INSURANCE COMPANIES OF OTHER STATES.

**104.** It shall be lawful for such mutual insurance companies, organized under the laws of any other State, as transact the business of marine or inland insurance exclusively, to do business in this State, with the consent of the Commissioner of Insurance of this State, upon filing the statements, making the applications, and complying in all respects, so far as applicable with the provisions of an act entitled "An Act relative to the Organization and Powers of Fire and Marine Insurance Companies, transacting business in this State," chapter ninety-nine (99) of the compiled laws of eighteen hundred and seventy-one, and all acts amendatory thereof; and the Commissioner of Insurance is hereby authorized to admit such mutual insurance companies to do marine and inland insurance exclusively, upon their complying with all the provisions of said act, except the requirement as to paid in capital stock; *Provided*, Said Commissioner of Insurance may at any time, when he shall have

knowledge or good reason to believe any such company is not sound, or has made any false statement of its condition, to revoke such permit and all certificates granted to such company and its agents, and require them to discontinue business in this State. Any agent of such company refusing to obey the order of such Commissioner to discontinue business, or writing risks in any company excluded by such Commissioner, after notice of such exclusion, or of a revocation of its certificate of authority by such Commissioner, shall be guilty of a misdemeanor, and may be punished upon conviction thereof, as in other cases of misdemeanor, in the discretion of the court. (*Ibid*, Act No. 34.)

## SERVICE OF PROCESS ON INSURANCE COMPANIES.

**105.** No life, fire, inland, or marine insurance company, not incorporated under the laws of this State, shall insure property or do business in this State, until it has filed with the Commissioner of Insurance a written stipulation, duly authenticated by the company, stipulating and agreeing that any legal process affecting such company, served on the Insurance Commissioner or his deputy, shall have the same effect as if personally served on the company or its authorized attorney in this State. (*Ibid*, Act No. 155, § 1.)

**106.** The Commissioner of Insurance shall, within three months from the passage of this act, transmit a copy thereof, with proper blanks for such stipulation, to every company authorized to do business in this State, and shall receive and file the stipulations herein provided for, and the same shall be safely kept in his office. (*Ibid*, § 2.)

**107.** So long as any liability of such stipulating company to any resident of this State shall continue, such stipulation shall not be revoked or modified, except that another shall be filed according to law. (*Ibid*, § 3.)

**108.** Service of process, according to a stipulation provided in this act, shall be sufficient personal service on the company. (*Ibid*, § 4.)

**109.** A copy of such stipulation, certified by the Commissioner of Insurance or his deputy, and a certificate that process has been duly served on him or his deputy, shall be a sufficient evidence thereof. (*Ibid*, § 5.)

**110.** When process against or affecting any company is served on the Commissioner of Insurance or his deputy, the same shall be by duplicate copies, one of which shall be filed in the office of said Commissioner and the other by him immediately mailed, postage prepaid, to the home office of the company, or such branch or general agency of the company, or to the address of the authorized resident attorney in this State, as the company may designate in such stipulation. (*Ibid*, § 6.)

**111.** The word "process" in this act shall include any writ, declaration, summons, or order whereby any action, suit, or proceeding shall be commenced, or which shall be issued in or upon any action, suit or proceeding authorized by law in this State. (*Ibid*, § 7.)



## INSURANCE ON LIVES FOR THE BENEFIT OF MARRIED WOMEN AND CHILDREN.

**112.** It shall be lawful for any married woman, by herself, and in her name, or in the name of any third person, with his assent, as her trustee, to cause to be insured for her sole use, the life of her husband, or the life of any other person, in any life insurance company of any nature whatever, located in either of the states of the United States of America or in Great Britain, for any definite period, or for the term of his natural life; and in case of her surviving her husband, or such other person insured in her behalf, the sum or net amount of the policy of insurance due and payable by the terms of the insurance shall be payable to her, to and for her own use, free from the claims of the representatives of her husband, or of such other person insured, or of any of his creditors; but such exemption shall not apply where the amount of premium annually paid shall exceed the sum of three hundred dollars. (*Compiled Laws, 1871, p. 1478, § 4808.*)

**113.** In case of the death of the wife before the decease of her husband, or of such other person insured, the amount of the insurance may be made payable after her death to her children, for their use, and to their guardian, if under age, or the amount of the policy may be disposed of by such married woman by a last will and testament. (*Ibid, p. 1479, § 4809.*)

## ARSON AND INCENDIARISM.

**114.** Every person who shall willfully and maliciously burn, in the night-time, the dwelling-house of another, or shall, in the night-time, willfully and maliciously set fire to any other building owned by himself or another, by the burning whereof such dwelling-house shall be burnt in the night-time, shall be punished by imprisonment in the State Prison for life; but if it shall appear on the trial, and the jury shall find, that at the time of committing the offense there was no person lawfully in the dwelling-house so burned, the punishment, instead of imprisonment for life, may be imprisonment in the State Prison for any term of years. (*Ibid, § 1.*)

**115.** Every person who shall willfully and maliciously burn, in the day-time, the dwelling-house of another, or any building adjoining such dwelling-house, or shall willfully and maliciously set fire to any building owned by himself, or another, by the burning whereof such dwelling house shall be burnt in the day-time, or shall, in the day-time, willfully and maliciously set fire to any building owned by himself or another, by the burning whereof such dwelling-house shall be burnt in the night-time, shall be punished by imprisonment in the State Prison for life, or for any term of years. (*Ibid, § 2.*)

**116.** Every person who shall willfully and maliciously burn, in the night-time, any meeting-house, church, court-house, college, academy, jail, railroad depot, or other building erected for public use; or any banking-house, warehouse, store, manufactory, or mill of another, being, with the property therein contained, of the value of one thousand dollars; or any barn, stable, shop, or office of an-

other, within the curtilage of any dwelling-house; or any other building by the burning whereof any building mentioned in this section shall be burnt in the night-time, shall be punished by imprisonment in the State Prison for any term of years. (*Ibid*, § 3.)

**117.** Every person who shall willfully and maliciously burn, in the day-time, any building mentioned in the preceding section, the punishment for which, if burnt in the night-time, would be imprisonment in the State Prison for any term of years, shall be punished by imprisonment in the State Prison not more than ten years. (*Ibid*, p. 2079, § 4.)

**118.** Every person who shall willfully and maliciously burn, either in the night-time or in the day-time, any banking-house, warehouse, store, manufactory, mill, barn, stable, shop, office, out-house, or other building whatsoever of another, other than is mentioned in the third section of this chapter, or any bridge, lock, dam, or flume, or any ship, boat, or vessel, of another, lying within the body of any county, shall be punished by imprisonment in the State Prison not more than ten years. (*Ibid*, § 5.)

**119.** Every person who shall set fire to any building mentioned in the preceding sections, or to any other material, with intent to cause any such building to be burnt, or shall by any other means attempt to cause any building to be burnt, shall be punished by imprisonment in the State Prison not more than fifteen years, or by fine not exceeding one thousand dollars, and imprisonment in the county jail not more than one year. (*Ibid*, § 6.)

**120.** Every person who shall willfully and maliciously burn, or otherwise destroy or injure, any pile or parcel of wood, boards, timber, or other lumber, or any fence, bars, or gate, or any stack of grain, hay, or other vegetable product, or any vegetable product severed from the soil and not stacked, or any standing trees, grain, grass, or other standing product of the soil, or the soil itself, of another, shall be punished by imprisonment in the State Prison not more than five years, or by fine not exceeding five hundred dollars, or imprisonment in the county jail not more than one year. (*Ibid*, § 7.)

**121.** Every person who shall willfully burn any building, or any goods, wares, merchandise, or other chattels, which shall be at the time insured against loss or damage by fire, or shall willfully cause or procure the same to be burned, with intent to injure the insurer, whether such person be the owner of the property or not, shall be punished by imprisonment in the State Prison not more than ten years. (*Ibid*, p. 2080, § 9.)

## EMBEZZLEMENT.

**122.** Any person who shall be appointed or who shall act as agent for any insurance company within this State, or who shall solicit applications, issue policies or renewals, and collect premiums, either for original insurances or renewals, or who shall receive or collect moneys from any source or on any account whatsoever, as such agent, for any insurance company doing business in this State, whether such company be organized under the laws of this State or any other State of the Union, such person shall be held personally responsible to such company for any moneys received by him for such company. (*Laws of 1871, Act No. 95, § 1.*)

**123.** If any such agent or person shall embezzle or convert to his own use, or shall take or secrete, or otherwise dispose of, with intent to embezzle or use, or shall withhold or appropriate, invest, loan or otherwise fraudulently apply, or make use of without the consent of such company, or contrary to its instructions, any money belonging to such company which shall have come into his possession, or shall be under his care by reason of such agency, he shall be deemed by so doing to have committed the crime of larceny, and on conviction shall be subject to the fines and penalties provided by the laws of this State in such cases. (*Ibid*, § 2.)

**124.** For General Provisions relating to Corporations, see Compiled Laws of 1871, pp. 1148-1155, 1837-1855; Laws of 1872, pp. 83, 84, 89-91.

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# INSURANCE STATUTES OF MINNESOTA.

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## CONSTITUTIONAL PROVISIONS CONCERNING CORPORATIONS.

1. The term "corporations," as used in this article, shall be construed to include all associations and joint-stock companies having any of the powers and privileges not possessed by individuals or partnerships, except such as embrace banking privileges, and all corporations shall have the right to sue, and shall be liable to be sued in all courts in like manner as natural persons. (*Art. 10, § 1.*)

2. No corporation shall be formed under special acts, except for municipal purposes. (*Ibid, § 2.*)

3. Each stockholder in any corporation (excepting those organized for the purpose of carrying on any kind of manufacturing or mechanical business) shall be liable to the amount of the stock held or owned by him. (*Ibid, § 3.*)

4. The object of this act is to revise, simplify, and amend the laws of this State in relation to insurance, with due regard to the legislation of other States, so as to secure mutual harmony in the promotion of the public interest, to define the relation of the State to companies and individuals, to insure the stability of companies, to protect the interests of the assured, and to encourage the employment of capital. And its provisions are to be construed liberally in furtherance of the protection of the insured, and so far as may be in harmony with the construction which may be given by the courts of other States adopting a like act. (*Statutes at Large, 1873, p. 477, § 1.*)

5. The words, "the substantial provisions of this act shall be enacted," shall be construed to mean the provisions of this act which define the right to do insurance business and provide for the stability of companies and the protection of the insured; and differences in respect to the organization of the Insurance Department, the constitution of companies, or the form of judicial remedies, shall not be deemed to impair the uniformity which this act is intended to secure. (*Ibid, p. 478, § 2.*)

6. When, by the laws of any other State or nation, any taxes, fines, penalties, licenses, fees, deposits of money, or of securities, or other obligations or prohibitions, are imposed on insurance companies of this State doing business in such other State or nation, or upon their agents therein, so long as such laws continue in force, the same obligations and prohibitions, of whatever kind, shall be imposed upon all insurance companies of such other State or nation doing business in this State and upon their agents here. (*Ibid, § 3.*)

7. The term "company," as used in any provision of this act, subjecting companies to any obligation or restriction, includes individuals, partnerships, joint-stock associations and corporations. (*Ibid, § 4.*)

8. The term "American company," as used in this act, designates a company which exists by the laws of any State or Territory of the United States, or by any law of the United States. All others are designated as foreign. (*Ibid*, § 5.)

9. The expression "company of a State, territory, or nation," as used in this act, means a company incorporated by or organized under the laws of such State, territory or nation. (*Ibid*, § 6.)

10. The word "Commissioner," designates the officer, by whatever name called, who is charged for the time being with the duties of Commissioner of Insurance. (*Ibid*, § 7.)

11. The term "oath," in this act, includes affirmations. The term "directors," in this act, designates the trustees, managers, or officers constituting the executive board of a company. Directors are included in the term "officers," unless a contrary intention appears. The term "agent" or "agents," in this act, includes an acknowledged agent, surveyor, and all other persons who shall in any manner, directly or indirectly, aid in transacting the business of insurance. Nothing contained in this act shall be construed to imply that an agent has any power to bind a company, not expressly, or by necessary implication, given him by the company. (*Ibid*, § 8.)

#### INSURANCE COMMISSIONER.

12. It shall be the duty of the Governor, by and with the advice and consent of the Senate, to appoint one competent person, a resident and citizen of the State, and with the other qualifications hereinafter provided, who shall be styled the Insurance Commissioner, who shall be sworn in the manner provided by law for other State officers. He shall hold his office for two years, and execute the duties thereof as herein, until his successor is appointed and qualified, and in case of a vacancy by death, removal, resignation, or otherwise, the governor shall fill the same by appointment. No person who is a director, officer, agent, attorney, or stockholder of, or directly or indirectly interested in, any insurance company, except as insured, shall be Commissioner; and no officer or agent of any insurance company doing business in this State shall be deputed to examine the affairs of a company under this act; The said Commissioner shall keep his office at the capital of the State, and shall give bonds in the sum of \$5,000, with two sureties to be approved by the Governor, for the faithful discharge of his duties. (*Ibid*, p. 479, § 9.)

13. Said Commissioner shall be entitled to a salary of (2,000) two thousand dollars per annum, which shall include and cover postage, stationery, and all other office expenses. *Provided*, That said salary or expenses shall in no event be a charge upon the State Treasury, over and above the fees and license receipts paid into the same by said Commissioner. All necessary blanks, forms, and circulars, together with such pamphlet copies of the insurance law as may be required for distribution among persons affected by the provisions of this act, shall be furnished at the expense of the State. And if the said Commissioner shall directly or indirectly receive any compensation or pay for any service or extra service, or for neglect or omission of service, other than is provided in this act, he shall be deemed guilty of a felony, and, on conviction thereof, shall be subject to a fine not exceeding five thousand dollars, or im-

prisonment in the State Prison for a term not exceeding five years, or both, in the discretion of the court. (*Ibid*, § 10.)

**14.** It shall be the duty of such Insurance Commissioner:

1. To see that all laws of this State respecting insurance companies are faithfully executed.

2. To file in his office every charter or declaration of organization of a company, with the certificate of the Attorney-General; and, on application of the corporators, to furnish to them a certified copy thereof.

3. He shall, as soon as practicable, in each year following the passage of this act, calculate, or cause to be calculated, in his office, by officers or employees, of his department, [or bureau,] the net value, on the 31st day of December of the previous year, of all the policies in force on that day, in each life insurance company doing business in this State, organized by authority of this State; and every other life insurance company doing business in this State, that shall fail to furnish him as hereinafter provided, a certificate of the Insurance Commissioner of the State by whose authority the company was organized, or by the State in which it may elect to have its policies valued and its deposits made in case the company is chartered by the government of the United States, giving the net values of all policies in force in the company on the 31st day of December of the preceding year.

4. Calculations of the net value of each policy must be based upon the American Experience Table of Mortality, and six per cent. interest per annum. And the net value of a policy at any time shall be taken to be the net single premium which will at that time effect the insurance, less the value at that time of the future net premiums called for by the table of mortality and rate of interest designated above.

5. In case it is found that any life insurance company doing business in this State has not on hand the net value of all its policies in force, after all other debts of the company and claims against it, exclusive of capital stock, have been provided for, it shall be the duty of the Insurance Commissioner to publish the fact that the then existing condition of the affairs of the company is below the standard of legal safety established by this State, and he shall require the company at once to cease doing new business; and he shall immediately institute proceedings, as required in this act, to determine what further shall be done in the case.

6. It is hereby made the duty of the Insurance Commissioner, after having determined as above, the amount of the net value of all the policies in force, and added thereto the amount of all other debts and claims against the company, exclusive of its capital stock, to see that the sum of all liabilities so ascertained, is fully equaled by the total of admitted assets of such company, comprising its real estate, premiums, loans and notes, cash on hand, rents, and other convertible property, together with the safe legal securities of the description and character hereafter provided in this act.

7. He shall accept the valuations made by the Insurance Commissioner of the State under whose authority a life insurance company was organized, when such valuations have been properly made on sound and recognized principles and legal



basis, as above; *Provided*, The company shall furnish to the Insurance Commissioner of this State a certificate from the Insurance Commissioner of such State, setting forth the value, calculated on the data designated above, of all the policies in force in the company on the previous 31st day of December; and stating that, after all other debts of the company, and claims against it at that time, were provided for, the company had, in safe securities of the character specified in this act, an amount equal to the net value of all its policies in force; and that said company is entitled to do business in its own State.

8. Every life insurance company doing business in this State during the year for which the statement is made, that fails promptly to furnish the certificate aforesaid, shall be required to make full detailed lists of policies and securities to the Insurance Commissioner of this State, and shall be liable for all charges and expenses consequent upon not having furnished said certificate.

9. For every company doing fire insurance business in this State, he shall calculate the reinsurance reserve for unexpired fire risks by taking fifty per cent. of the premiums received on all unexpired risks that have less than one year to run, and a *pro rata* of all premiums received on risks that have more than one year to run; *Provided*, That when the reinsurance reserve calculated as above, is less than forty per cent. of all the premiums received during the year, the reinsurance reserve in this case shall be the whole of the premiums received on all its unexpired risks.

10. In marine and inland insurance he shall charge all the premiums received on unexpired risks as a reinsurance reserve.

11. Having charged against a company the reinsurance reserve, as above determined, for fire, inland, and marine insurance, and adding thereto all other debts and claims against the company, he shall, in case he finds the capital stock of the company impaired to the extent of twenty per cent., give notice to the company to make good its whole capital stock within sixty days; and if this is not done, he shall require the company to cease to do new business within this State, and shall thereupon, in case the company is organized under the authority of this State, immediately institute legal proceedings, as required in this act, to determine what further shall be done in the case. Any company receiving the aforesaid notice of the Commissioner to make good its whole capital stock within sixty days, shall forthwith call upon its stockholders for such amounts as will make its capital equal to the amount fixed by the charter of said company; and in case any stockholder of such company shall neglect or refuse to pay the amount so called for, after notice personally given, or by advertisement, in such time and manner as the said Commissioner shall approve, it shall be lawful for the said company to require the return of the original certificate of stock held by such stockholder, and in lieu thereof to issue new certificates for such number of shares as the said stockholder may be entitled to, in the proportion that the ascertained value of the funds of the said company may be found to bear to the original capital of the said company; the value of such shares, for which new certificates shall be issued, to be ascertained under the direction of the said Commissioner, and the

company paying for the fractional parts of shares; and it shall be lawful for the directors of such company to create new stock and dispose of the same, and to issue new certificates therefor, to any amount sufficient to make up the original capital of the company. Whenever the capital stock of any joint-stock fire or marine insurance company of this State becomes impaired, the Commissioner may, in his discretion, permit the said company to reduce its capital stock and the par value of its shares in proportion to the extent of impairment; *Provided*, That, in fixing such reduced capital, no sum exceeding twenty-five thousand dollars shall be deducted from the assets and property on hand, which shall be retained as surplus assets; *and Provided*, That no part of such assets and property shall be distributed to the stockholders; *and Provided further*, That the capital stock shall not be reduced to an amount less than that required by law for the organization of a new company. To examine, or cause to be examined, every detail of the business of any company transacting business of insurance within this State, whenever in his judgment such examination is required by the interests of the policy-holders of such company.

12. It shall be the duty of the Insurance Commissioner, after he has notified a life insurance company, organized under authority of this State, to cease doing new business until the net value of its policies in force is equal to that called for by the standard of safety established by the State, at once to cause a rigid examination in regard to all the affairs of such company. In case it shall appear that there is no fraud or gross incompetency or recklessness shown to exist in the management, he may, upon publishing the facts in the case, permit such company to continue in charge of its business for one year, provided there is, in his opinion, reason to believe that the company may eventually be able to re-establish the legal net value of all its policies in force.

13. In case the Insurance Commissioner does not permit the company to continue in the control of its old business, it is hereby made his duty to institute the necessary proceedings for the protection of its policy-holders, in accordance with the laws of this State.

14. To publish the result of his examination of the affairs of any company, whenever he deems it for the interest of the public so to do, in one or more papers of this State.

15. To suspend the entire business of any company of this State, and the business, within this State, of any other company, during its non-compliance with any provisions of this act, or whenever its assets appear to him insufficient to justify its continuance in business, by suspending or revoking the certificate granted by him; and to give notice thereof to the Insurance Commissioner, or other similar officer of every State, and publish the same in the papers in which, by law, State notices are required to be published.

16. To institute, or cause to be instituted, the necessary proceeding[s], under the laws of this State, to close the affairs of any company of this State which shall appear to him upon examination to be insolvent, or fraudulently conducted.

17. To report in detail, to the Attorney-General, any viola-

tion of law relative to insurance companies, their officers or agents, or the business of insurance.

18. To furnish to the companies required by this act to report to him the necessary blank forms for the statements required.

19. To preserve, in permanent form, a full record of his proceedings, and a concise statement of the condition of each company or agency visited or examined.

20. At the request of any person, and on payment of a [the] fee, to give certified copies of any record or papers in his office, when he deems it not prejudicial to public interests so to do, and to give such other certificates as this act provides for.

21. To make a written report to the Governor on or before the first day of July of each year, showing his official acts, the receipts and expenses of his department for the year, the condition of the companies doing business in this State, and such other information as will exhibit the affairs of his department; which report shall be printed to the number of one thousand, at the expense of the State, and distributed among the members of the succeeding legislature, and otherwise, as provided in this act.

22. To send a copy of his annual report to the Insurance Commissioner, or other similar officer, of every other State, and to each company doing business in this State.

23. On request, to communicate to the Insurance Commissioner of any other State in which the substantial provisions of this act shall be enacted, any facts which, by law, it is his duty to ascertain respecting companies of this State doing business within such State.

24. To adopt and to renew, from time to time, when necessary, with the approval of the Governor, a seal of office, an impression and description whereof, with the Governor's certificate of approval, should [shall] be filed in the office of the Secretary of State.

25. It shall be his duty to see that no company shall be hereafter permitted to issue policies of insurance on lives in this State that does a fire, marine, or inland insurance business. And in determining the capital or assets of any fire insurance company, the Commissioner shall exclude all notes given for premium[s] upon policies issued. (*Ibid*, § 11.)

**15.** The Insurance Commissioner, for the purposes of examinations authorized by law, has power, either in person or by one or more examiners by him commissioned in writing:

1. To require free access to all books and papers within this State, of any insurance company, or the agents thereof, doing business within this State.

2. To summon and examine any person being within this State, under oath, which he or any examiner may administer, relative to the affairs and condition of any company.

3. For probable cause, to visit, at its principal office, wherever it may be, any insurance company not of a State in which the provisions of law contained in this act shall be in force, and doing business in this State, for the purpose of investigating its affairs and condition; and to revoke its certificate in this State, if it does not permit an examination.

4. To revoke or modify any certificate of authority, when any conditions prescribed by law for granting it no longer exist.

5. The Insurance Commissioner has also power to institute suits and prosecutions, either by the Attorney-General, or such other attorney as the Commissioner may designate, for any violation of this act; and the Commissioner is a necessary party to any proceeding instituted for the purpose of closing up the affairs of any company, when the same shall not be in the name of the State. (*Ibid*, p. 483, § 12.)

16. Whoever, without justifiable cause, being within this State, refuses to appear and testify before the Commissioner, whenever so required, or obstructs him in the discharge of his duty, shall for each offense be punished by a fine not exceeding one thousand dollars, or by imprisonment not exceeding one year. (*Ibid*, § 13.)

17. Every instrument executed by the Commissioner of this State, or any other State in which the substantial provisions of this act shall be enacted, pursuant to authority conferred by this act, and authenticated by his seal of office, shall be received as evidence in this State; and copies of papers in his office certified by him, and so authenticated, shall be received as evidence in this State with the same effect as the originals. Every such instrument so executed and authenticated by the Commissioner of this State shall be recorded in the same manner, and the same and its record shall have the like effect, as if acknowledged or proved according to law. The impression of the seal may be directly on paper, with or without tenacious substance. (*Ibid*, § 14.)

18. There shall be paid by every company to whom this act applies, the following fees toward defraying the expenses of executing its provisions: Upon filing the declaration or certified copy of charter, twenty-five dollars. Upon filing the annual statement or certificate in lieu thereof, twenty dollars. For each certificate of authority and certified copy thereof, one dollar. For every copy of any paper filed with the Commissioner, the sum of twenty cents per folio; and for affixing the official seal to such copy and verifying the same, one dollar. For valuing policies of life insurance companies, ten dollars per million of insurance, or any fraction thereof. For official examinations of companies under this act, the actual expenses incurred. For countersigning and registering policies and annuity bonds, the reasonable expenses of custody, registration, and issue. All fees or fines received or collected by the Commissioner under the provisions of this act shall be paid over to the State Treasurer accompanied with a statement in detail on the last week-day of every month. (*Ibid*, § 15.)

19. In case the necessary expense of said Commissioner exceed the amount of fees collected under this act, and paid into the State treasury (exclusive of the tax upon premiums), the excess of such expense shall be annually assessed by the Commissioner, in equal shares upon all the insurance companies doing business in this State, and the Commissioner has power to collect such assessments and pay the same into the State treasury. (*Ibid*, p. 484, § 16.)

20. No transfer by the Insurance Commissioner of securities of any kind, in any way held by him in his official capacity, is valid until countersigned by the Treasurer of the State.

It is the duty of the State Treasurer:

1. To countersign any such transfer presented to him by the Commissioner, when satisfied of the propriety thereof;



2. To keep a record of all such transfers, stating the name of the company from whose account the transfer is made; the name of the transferee, unless transferred in blank; and a description of the security;

3. Upon countersigning, to advise by mail the company concerned of the particulars of the transaction;

4. In his annual report to the legislature, to state the amount of transfers countersigned by him. (*Ibid*, § 17.)

**21.** For the purpose of verifying the correctness of records, the Commissioner is entitled to free access to the treasurer's record required by section 9, and the treasurer is entitled to free access to the books and other documents of the Insurance Commissioner, relating to securities held by the Commissioner. (*Ibid*, § 18.)

## PROVISIONS APPLICABLE TO ALL CLASSES OF COMPANIES.

**22.** It is unlawful for insurers or their agents to make, negotiate, or solicit, within this State, any contract of insurance, except as authorized in this act. (*Ibid*, § 19.)

**23.** No company hereafter organized in this State shall make insurance upon the lives of individuals, nor grant, purchase, or dispose of annuities, unless organized solely therefor, and doing such business exclusively. (*Ibid*, § 20.)

**24.** No declaration of organization or charter of an insurance company formed under any general law of this State, and no alteration or amendment thereof, shall be operative until it has been submitted to the Attorney-General for examination; and found by him to be in accordance with the provisions of this act, and of such general law, and not inconsistent with the constitution and laws of the United States and of this State; and so certified by him, and delivered to the Insurance Commissioner. (*Ibid*, § 21.)

**25.** The capital stock and accumulations of any insurance company of this State shall be invested in the bonds or treasury notes of the United States, or national bank stocks, or bonds of this State or any other State of the United States, or of any city, town, or county of this State or of any other State of the United States having legal authority to issue the same, bearing interest at their market value, or in any interest or dividend paying stocks or bonds issued under the laws of this State at their known market value, or they may be invested or loaned on mortgages of unencumbered real estate in this or any other State of the United States, worth at least double the amount loaned thereon, exclusive of buildings, except when such buildings are insured and the policies duly assigned as additional security; or loaned on pledges of any of the securities named in this section; *Provided, always*, That the current market value of such pledged securities shall be at all times during the continuance of such loans at least twenty per cent. more than the sum loaned on them, and all such loans are subject to the power of the company to terminate the same in case of depreciation of the securities below the limit; *and Provided*, That in all investments made upon mortgage securities the evidence of the debt shall accompany the mortgage or deed of trust. No dividends shall be paid except from surplus in excess of the minimum capital stock required by law, reserve fund for reinsurance of policies, and other liabilities of

the company. But this section shall not be construed to affect the power of a company to make dividends not impairing its capital and its reserve. (*Ibid*, p. 485, § 22.)

**26.** Before any insurance company of this State shall do any business, the Insurance Commissioner shall cause an examination to be made, either by himself or a disinterested person appointed by him for that purpose, who shall certify, under oath, that the capital herein required of the company named in the charter, according to the nature of the business proposed to be transacted by such company has been paid in in money, and invested in such securities as are required by section four of this title. (*Ibid*, § 23.)

**27.** Before any insurance company shall commence business in this State, the following conditions must be complied with:

1. It must be fully organized.

2. If it be a company not of this State, a copy of its charter, duly accepted, or its declaration of organization or deed of settlement, duly approved, in section 3, and duly certified by the Insurance Commissioner or other proper officer of his own State or nation, with his certificate that the company is entitled to assume risks and issue policies therein, together with the stipulation respecting service of process in this State, required by section 21, of this title, and a statement of the place where it is located, must be filed with the Insurance Commissioner of this State.

3. It must procure from the Insurance Commissioner of this State a certificate that it has complied with the provisions of the law of this State applicable to it, and is entitled to assume risks and issue policies in this State. (*Ibid*, § 24.)

**28.** No person shall act as agent, in this State for any company not of this State, in any manner whatever relating to risks, until the last section has been complied with on the part of the company, and he has received from the Insurance Commissioner a certificate of authority, stating that the foregoing requirements have been complied with, a record of which certificate shall be kept in the office of the Commissioner. A renewal certificate must be procured and filed within sixty days from the first day of January in each year. Any such person or agent doing or attempting to do business in any way relating to insurance in this State without such certificate of authority, in violation of this section, or after said certificate shall have been revoked, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in a sum not exceeding five hundred dollars for each offense. (*Ibid*, § 25.)

**29.** Every insurance company or agent thereof doing business in this State, shall, in all advertisements of such company or agency, publish the location of the company, giving the name of the city, town, or village in which the company is located, and the State or government under the laws of which it is organized, and in all advertisements and circulars in which the capital of the company so advertising, is stated, the amount at risk on the preceding 31st of December shall be stated. (*Ibid*, § 26.)

**30.** It is unlawful for any insurance company of this State to purchase, hold, or convey real estate anywhere, and for any other insurance company to purchase, hold, or convey real estate within this State, except for the purposes and in the manner and time following:

1. Such as shall be requisite for its accommodation in the transaction of its business; or,

2. Such as shall have been mortgaged to it in good faith, by way of security for loans previously contracted or for moneys due; or,

3. Such as shall have been conveyed to it in satisfaction of debts previously contracted in the course of its dealings; or,

4. Such as shall have been purchased at sales upon judgments, decrees, or mortgages obtained or made for such debts.

Real estate lawfully acquired as aforesaid, and not necessary for the accommodation of the company in the transaction of its business, shall be sold and disposed of within five years after its acquiring title to the same; unless the company procures a certificate from the Insurance Commissioner that the interests of the company will suffer materially by a forced sale thereof, and extending the time for the sale to a period fixed in said certificate. Any company of a State in which the provisions of law contained in this act shall be in force, may purchase, hold, and convey real estate within this State, or any other of the said States, for the purposes and in the times and manner above provided for. (*Ibid*, § 27.)

**31.** Every insurance company having deposited security [ies] with the Insurance Commissioner, whether under this act or any other, must by its president, secretary, or attorney, examine the securities and compare them with the books of the Commissioner, once or more in each calendar year, at such times, in or during business hours, as the company may direct, and if found correct, give the Commissioner a written acknowledgment that the same, designating the kind, and amounts, are in his custody at the date of the acknowledgment. (*Ibid*, § 28.)

**32.** If any insurance company doing business in this State, shall violate any of the provisions of this act, or shall, by means of any advertisement, circular, notice, or statement, printed or written, published, posted, or circulated through and by the agency of any officer, agent, or other person, or by any other means, falsely represent or hold out to the public that the capital stock of such company is greater than its actual amount, or that the accumulation of such company is greater than its actual cash or market value, every director, officer, or agent of such company guilty of any willful participation therein, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding one thousand dollars, or by imprisonment in the county jail not exceeding three months, or by both such fine and imprisonment, in the discretion of the court; and if any such company, after any such false advertisement, posted or circulated, shall receive any money, note, or obligation for the payment of money from any person, as a consideration for any insurance made, or policy issued, or to be issued by such company, such money, note, or obligation shall be deemed and taken to have been received without consideration and the directors of such company, and any officer or agent receiving the same, shall be jointly and severally liable in a civil action for the repayment thereof, and shall also, in like manner be liable to the person insured for the amount of the premium paid. (*Ibid*, p. 487, § 29.)

**33.** Every insurance company doing business in this State must transmit to the Insurance Commissioner a statement of its condition and business for the year ending on the preceding 31st of

December, which statement shall be rendered within sixty days thereafter, except that foreign companies shall transmit their statement of business, other than that done in the United States prior to the following first day of July. Such statement must be published at least three times in some newspaper of general circulation, printed and published either at the capital of the State or in the county where the State agency of such insurance company is located. Statements for publication shall be made out on the blanks furnished by the Insurance Commissioner and under his direction, and the Insurance Commissioner's certificate of authority to do business in the State shall be published in connection with the said statement of such [each] company doing business in this State; proof of publication, to wit: the printer's affidavit of the fact, shall be filed with the Insurance Commissioner in all cases. (*Ibid*, § 30, *as amended by laws of 1874, p. 139.*)

**§ 1.** The annual statements required by the last section must be in form, and state the particulars as follows:

*First.*—The amount of the capital stock of the company actually paid in.

*Second.*—The property or assets held by the company, specifying:

1. The value, as nearly as may be, of the real estate held by said company.

2. The amount of cash on hand and deposited in banks to the credit of the company, specifying in what banks the same are deposited.

3. The amount of cash in the hands of agents, and in course of transmission.

4. The amount of loans, secured by mortgages and bonds, constituting the first lien on real estate, on which there shall be less than one year's interest due or owing.

5. The amount of loans on which interest shall not have been paid within one year previous to such statement.

6. The amount due the company on which judgments have been obtained.

7. The amount of stocks of this State, of the United States, of any incorporated city of this State, and of any other bonds or stocks owned by the company, specifying the amount, number of shares, and par and market value of each kind of stock on the day of making statement.

8. The amount of stocks held thereby as collateral security for loans, with the amount loaned on each kind of stock, its par value and market value on day of making statement.

9. Amount of interest due and accrued not paid.

*Third.*—The liabilities of such company, specifying:

1. The amount of losses due and yet unpaid.

2. The amount of claims for losses resisted by the company.

3. The amount of losses incurred during the year, including those claimed and not yet due, and including the probable amount of those reported to the company, upon which no action has been taken; *Provided*, That all such losses incurred in the State of Minnesota shall be reported separately and apart from those incurred in any other State or country.

4. The amount of dividends declared and due, and remaining unpaid.

5. The amount of dividends, if any, declared but not yet due.



6. The amount of money borrowed, and security, if any, given for the payment thereof.

7. All other existing claims against the company.

8. The gross amount of risks taken during the past year.

9. The amount of risks taken in the State of Minnesota during the past year.

10. The whole amount of risks outstanding.

11. The amount of outstanding risks in the State of Minnesota.

12. The whole amount of unearned premiums on outstanding risks.

13. The amount of unearned premiums on outstanding risks in the State of Minnesota.

*Fourth.*—The income of the company during the preceding year, specifying:

1. The whole amount of cash premiums received.

2. The amount of premiums received on policies issued in the State of Minnesota.

3. The whole amount of interest money received.

4. The amount of interest money received on loans in the State of Minnesota.

5. The whole amount of income received from other sources.

*Fifth.*—The expenditures during the preceding year, specifying:

1. The whole amount of losses paid during the past year, stating how much of the same accrued prior, and how much subsequent, to the date of the preceding statement, and the amount at which losses were estimated, in such preceding statement.

2. The amount of losses paid upon risks taken in the State of Minnesota, during the past year, stating how much of the same accrued prior, and how much subsequent, to the date of the preceding statement, and the amount at which losses were estimated in such preceding statement.

3. The amount of dividends paid during the past year.

4. The whole amount of salaries paid officers and agents of the company.

5. The amount of salaries paid officers and agents employed in the State of Minnesota.

6. The whole amount of commissions and fees paid officers and agents.

7. The amount of commissions and fees paid officers and agents employed in the State of Minnesota.

8. The whole amount of all and any other expenses not herein enumerated.

9. The amount of taxes paid, specifying separately and apart the amount paid in this State.

10. The amount of fees of all and every kind paid the Treasurer of the State of Minnesota, specifying date, for what purposes, and amount.

*Sixth.*—The number of agents and other officers employed in the State of Minnesota. (*Ibid*, § 31.)

**35.** The Insurance Commissioner may require, at any time, statements from any company doing business within this State, or any of its officers or agents, on such points as he deems necessary and proper to elicit a full exhibit of its business and standing. (*Ibid*, p. 489, § 32.)

**36.** The statement required under this act must be verified by the signature and oath of the president or vice-president, with those of the secretary or actuary; or by those of a majority of the directors. (*Ibid*, § 33.)

**37.** No company having neglected to file a statement required from it, within the time and in the manner prescribed, shall do any new business, after a notification by the Commissioner, while such neglect continues. (*Ibid*, § 34.)

**38.** Any company willfully neglecting to make and transmit any statement required shall forfeit one hundred dollars for each day's neglect. (*Ibid*, § 35.)

**39.** Any company or person willfully making a false statement in any report to the Commissioner is liable to a penalty of five hundred dollars, which sum must be paid to the Commissioner, in default of which the certificate of authority shall be revoked. (*Ibid*, § 36.)

**40.** The Insurance Commissioner has authority to prevent publication of any part of the statement, made under this article, until his annual report to the legislature is made. (*Ibid*, § 37.)

**41.** Every receiver or other judicially appointed trustee of an insurance company of this State, must make the statements required under this article, and all the provisions of this article shall apply to such receivers or trustees. (*Ibid*, § 38.)

**42.** No American company not of this State, nor its agents, shall do business in this State until it has filed with the Insurance Commissioner a written agreement, under the seal of the company, signed by the president and secretary thereof, and agreeing upon the part of the company that service of process in any civil action against the company may be made upon such agent or agents as it shall designate in said agreement, and authorizing such agent or agents, for and in behalf of such company, to admit such service of process upon him or them, and agreeing that the service of process upon such agents shall be valid and binding upon the company as if made upon the president and secretary thereof. No foreign insurance company, nor its agents, shall do business in this State until it has filed with the Insurance Commissioner of this State a written stipulation, duly authenticated by the company, agreeing that any legal process affecting the company, served on the Insurance Commissioner, shall have the same effect as if served personally on the company within this State. Any such foreign company may, at its option, explicitly designate in its stipulation its principal office or agency in this State, and in such case the stipulation may be that any legal process served on the Insurance Commissioner, and also on the person in charge at such office at the time when service is made, shall have the same effect as if served personally on the company, and that if there be no person in charge, or if he keeps himself concealed, or avoid service, such process may be served on him, or at such office, by publication, or posting, or otherwise, in the manner which shall then be prescribed by the law of this State for substituted service, and that if such company should cease to maintain such office in this State so designated, such process may thereafter be served on the Insurance Commissioner alone. (*Ibid*, § 39.)

**43.** So long as any liability of the stipulating company to any resident of this State continues, such stipulation cannot be revoked or modified, except that a new one may be substituted so as to re-

quire or dispense with service at the office, or to change the designation of such office. (*Ibid*, p. 490, § 40.)

**41.** Service of process, according to a stipulation under section 21 [42], shall be sufficient personal service on the company. A copy of such stipulation certified by the Commissioner and his certificate of revocation or modification of such stipulation, that a company has no office within the State duly designated by such stipulation, and that process has been duly served on him, or either of such facts, shall be sufficient evidence thereof. (*Ibid*, § 41.)

**45.** When process against or affecting an insurance company is served on the Insurance Commissioner, he must file the same, and forthwith mail a certified copy to the company at its home office, postage prepaid. (*Ibid*, § 42.)

**46.** The term "process" in this act includes any writ, summons, or order, whereby any action, suit, or proceeding shall be commenced, or which shall be issued in or upon any action, suit, or proceeding. (*Ibid*, § 43.)

**47.** Whenever a judgment for the recovery of money has heretofore been or hereafter may be recovered in any of the courts of this State or in any of the courts of the United States having jurisdiction in this State, against any insurance company or against any association, partnership, firm, or individual engaged in the business of insurance, and holding a certificate of authority therefor from the State Treasurer, under the laws of the State, or from the Insurance Commissioner under this act, and an execution thereon is issued and duly returned unsatisfied in whole or in part, proof is made by any person, by filing with the Insurance Commissioner a certified transcript of the docket of such judgment, together with a certificate of the clerk of the court in the county where the judgment-roll in said action is filed and the judgment therein is docketed, that an execution has been issued on such judgment to the proper officer of such county and returned unsatisfied in whole or in part, and with the date of issuing and return, the Insurance Commissioner shall forthwith revoke all authority or license for the transaction of any kind of insurance business within this State conferred upon such insurance company, association, partnership, firm, or individual, by any certificate therefor, granted by said Commissioner to such company, association, partnership, firm, or individual, under the provisions of this act, and shall withhold therefrom any new certificate of authority, such as is contemplated herein, until such judgment so docketed against such company, association, partnership, firm, or individual, is wholly paid and satisfied, and proof thereof filed with such Commissioner by the official certificate of the clerk of the court in the county where the judgment-roll is filed and judgment docketed, showing that the same is satisfied of record, and until the expenses and fees incurred in the case under the provisions of this title are also paid by such company, association, partnership, firm, or individual; and the Insurance Commissioner shall also forthwith cause notice of such revocation of authority to be published in some daily newspaper, printed and published at the capital of the State for at least one week; and during the time such authority or license remains so revoked it shall be unlawful for the company, association, partnership, firm, or individual holding such revoked certificate of authority, or any of its agents or officers, to issue or renew any policies of insurance, take any risks, or transact any business relat-

ing to insurance, except such as is absolutely necessary in closing up its affairs in this State. (*Ibid*, § 44.)

**48.** All duties heretofore required to be performed by, or responsibility imposed upon, the State Treasurer of this State under the existing laws regulating insurance companies, shall hereafter be performed by the Insurance Commissioner, so far as such duties and responsibilities are not changed, modified or repealed by this act. (*Ibid*, p. 491, § 45.)

**49.** All insurance companies doing business in this State, under the provisions of this act, shall annually, at the time the certificate of authority is granted, pay the Treasurer of State two per cent. on all premiums received in cash, and other obligations, except what are denominated insurance deposit notes, representing dividends of the company, by their agents or attorneys in this State during the year ending on the preceding thirty-first day of December, which sum shall be paid into the general revenue fund, and shall be in lieu of all other taxes or licenses to be collected from said companies in this State. (*Ibid*, § 46.)

**50.** Agents or employees of any insurance company doing business in this State, appointed or authorized to solicit for applications for insurance, to issue policies, to collect premiums on the same, to adjust losses, or to transact any other duties or business for such companies, shall be held personally responsible to such company for any moneys or property received by them for such company; and in case any such agent or employee shall embezzle or fraudulently convert to his own use, or shall take or secrete, with intent to embezzle and convert to his own use, without the consent of such company, any money or other property belonging to such company, which he shall have collected or which shall otherwise come into his possession, or shall be under his care or control by virtue of such agency or employment, or shall receive any consideration other than such allowed by the company for which he is acting, in the settlement or adjustment or payment of a loss, with intent to defraud either said company or any insurer, he shall be deemed guilty of the crime of larceny, and on conviction therefor shall be subject to the fines and penalties provided by statute for the punishment of larceny. (*Ibid*, § 47.)

**51.** If any person or persons insured in any company doing business in this State as provided in this act, shall willfully make any false statement, under oath, in making any claim or proof of loss, as required by said company, they shall be deemed guilty of a felony, and shall suffer the pains and penalties of perjury as provided by the laws of this State. (*Ibid*, § 48.)

## FIRE INSURANCE COMPANIES.

**52.** No joint-stock fire insurance company shall be organized in this State unless it has one hundred thousand dollars capital. No joint-stock fire, inland, or marine insurance company of any other State or nation shall do business in this State unless it has at least two hundred thousand dollars capital. (*Ibid*, p. 492, § 49, amended by laws of 1874, p. 138.)

**53.** No mutual fire insurance company not of this State shall do business in this State. (*Ibid*, § 50.)

**54.** No fire or inland insurance company of this State, or doing



business in this State, shall expose itself to any loss on any one fire or inland navigation risk or hazard, either by one or more policies, to [an] amount exceeding five per cent. of its paid up capital in the case of a fire, or ten per cent. in the case of an inland insurance company, whether reinsured or not. (*Ibid*, § 51.)

**55.** No fire insurance company shall make any dividend, except from the surplus profits arising from its business. In estimating such profits, there shall be reserved therefrom :

1. A sum equal to the whole amount of premiums on unexpired risks and policies, which are hereby declared to be unearned premiums ;

2. All sums due the company on bonds and mortgages, bonds, stocks, and book accounts, of which no part of the principal, nor the interest thereon, has been paid during the preceding year, and for which foreclosure or suit has not been commenced, or which, after judgment obtained thereon, shall have remained more than two years unsatisfied, and on which interest shall not have been paid ; and,

3. All interest due or accrued and remaining unpaid.

*Provided*, That any company may declare dividends not exceeding fifteen per cent. on its capital stock, in any one year, that possesses an accumulated fund in addition to the amount of its capital stock, and of such dividend, and all actual outstanding liabilities equal to one-half the amount of all premiums on risks not terminated at the time of making such dividend. Any dividend made contrary to this section shall subject the company making the same to a forfeiture of its charter and each stockholder receiving it to a liability to the creditors of such company, to the extent of the dividend received, besides the other penalties and punishments prescribed by law. This section shall not apply to the declaration of scrip dividends by participating companies ; but no such scrip dividends shall be paid, except from surplus profits after reserving all sums as above provided, including the whole amount of premiums on unexpired risks. The word "year," wherever used in this section, shall be construed to mean the calendar year. (*Ibid*, § 52.)

**56.** Any joint stock fire insurance company may (upon the written consent of the holders of three-fourths in amount of the stock) permit the insured to participate in the profits of its business, and provide how far any scrip, issued to the insured for such profits, shall be liable for the losses to be sustained ; and any company so doing, whenever an amount not less than one hundred thousand dollars has been accumulated, and scrip so issued therefor, may, upon the written consent of the holders of three-fourths in amount of the stock, pay off and cancel an amount of the original cash capital equal to one-half of the accumulated profits, and so may continue from time to time until the whole amount of the original cash capital is paid off ; provided, that before any portion of such capital stock shall be so paid off, proof shall be exhibited to the Insurance Commissioner that an amount of accumulated profits has been realized, scrip issued therefor, and investment made thereof, pursuant to the provisions of section 4 of title III. of this act [25], at least equal to double the amount so desired to be paid off and canceled, and the said Commissioner shall also first certify that he is satisfied with such proof. (*Ibid*, § 53.)

**57.** No fire insurance company of any other State of the

United States, in which the substantial provisions of this act shall be enacted, shall be required to make any deposit in this State. (*Ibid*, p. 493, § 54.)

**58.** No foreign fire insurance company shall do business in this State, unless it has on deposit with the Commissioner of this State, for the benefit of all its policy-holders in the United States, the sum of two hundred thousand dollars invested and valued as prescribed in section 4 of title III. [25], or unless it has complied with the next section. (*Ibid*, § 55.)

**59.** A foreign fire insurance company, which has its principal office in the United States in any State where the provisions of law contained in this act shall be in force, may file with the Insurance Commissioner of this State a certificate made by the Insurance Commissioner of such other State, that he holds a deposit made by such company, such as is described in the last section. No deposit shall be required in this State from such company while the deposit so certified remains sufficient. (*Ibid*, § 56.)

**60.** No foreign insurance company shall make any contract of insurance against loss or damage by fire or inland navigation risks, nor expose itself to any such loss by any one risk, for any greater amount in proportion to its capital, as determined by the following provisions, than companies of this State may. (*Ibid*, § 57.)

**61.** For the purposes of this act the capital of any foreign insurance company, doing fire insurance business in this State, shall be deemed to be the aggregate value of its deposits with the insurance or other departments of this State, and of the other States of the United States, for the benefit of policy-holders in any such State, or in the United States, and its assets and investments certified according to the provisions of this act in the United States, after making the same deductions therefrom for losses and all liabilities within the United States, and for premiums on unexpired risks as are made in the case of companies of this State; provided that such assets and investments be vested in and held within the United States by trustees, citizens of the United States, appointed by the Board of Directors of the company, and approved by the Insurance Commissioner of the State where invested for the benefit of the policy-holders and creditors in the United States. The trustees so chosen are hereby empowered to take, hold and convey real and personal property for the purposes of the trust, subject to the same restrictions as insurance companies of this State. (*Ibid*, § 58.)

**62.** The annual certificate of the Insurance Commissioner, given to any foreign fire insurance company [or] its agents, within this State, under section 8, [59] must state the amount of capital of the company, ascertained by him as defined in the last section. (*Ibid*, § 59.)

**63.** All the provisions contained in this title respecting fire insurance companies, shall apply to companies doing an inland insurance business, so far as, from the nature of the business of inland insurance, the same may be applicable. (*Ibid*, p. 494, § 60.)

**64.** Any fire insurance company already organized under the laws of this State and doing a farm business only, may continue to do such business by possessing twenty-five thousand dollars invested by deposits in national banks or as provided in section 4, title 3 of this act, [25] and comply with the other provisions of this act,

so far as applicable, but shall be exempt from complying with section 28, title 3, [19] and section 3, title 2, [14]. (*Ibid*, § 61.)

### LIFE INSURANCE COMPANIES.

**65.** No life insurance company shall be organized or do business in this State, unless it has at least one hundred thousand dollars, capital or assets, invested as provided in this act. (*Ibid*, § 62.)

**66.** No life insurance company of this State shall do business in this State or elsewhere, and no other life insurance company, except as provided in section 13 of this title, shall do business in this State, unless it has on deposit with the Insurance Commissioner or other financial officer of this State, as security for all its policy-holders, stocks or bonds of this State or of the United States to an amount the actual market value of which, exclusive of interest, shall never be less than one hundred thousand dollars, which stock or bonds shall be retained by the Commissioner or other designated officer and disposed of as directed by law; *Provided, however*, That personal obligations, secured by first mortgages on real estate within this State, worth, exclusive of all buildings, at least double the amount of the lien, and bearing an interest of not less than six per cent. per annum, may be received by the said financial officer of this State, instead of bonds or stocks, to the amount of not exceeding fifty thousand dollars. (*Ibid*, § 63.)

**67.** As long as any policies of the depositing company remain in force, the Insurance Commissioner shall hold the deposit mentioned in the last section as security for all holders of its policies. (*Ibid*, § 64.)

**68.** Any life insurance company of any other State of the United States in which the provisions of law contained in this act shall be in force, may file with the Insurance Commissioner of this State a certificate of the Insurance Commissioner of such other State, that, as such officer, he holds in trust and on deposit, for the benefit of all the policy-holders of such company, the deposit above described, stating the items of the securities so held; and that he is satisfied that such securities are worth one hundred thousand dollars. No deposit shall be required in this State while the said deposit so certified remains. (*Ibid*, § 65.)

**69.** When any life insurance company, doing business in this State, desires to relinquish its business, the Insurance Commissioner shall, on its application, under the oath of the president or vice-president, and secretary or actuary, give notice of such intention in a public newspaper, published at the State capital, at least twice a week for six months; and after such publication he shall deliver up to such company, or its assigns, any securities held by him belonging to it, on being satisfied by the exhibition of its books and papers, and on examination, by himself or a person appointed by him, and upon the oath of the president or vice-president, and the secretary or actuary of the same, that all liabilities due or to become due, on any agreement made with any citizens of the United States, are paid and extinguished. And the Commissioner may also, from time to time, deliver up to such company, or its assigns, any part of said securities, on being satisfied by any other competent proof that all liabilities due, or to become due by any agreement made by it, are

less than one-half the amount of the securities he still retains. Any foreign life insurance company having made such publication, may, in the discretion of the Insurance Commissioner, withdraw one-half of its deposit of one hundred thousand dollars, on registering, according to the provisions of law for registered policies, all its outstanding policies issued to citizens or residents of the United States, and covenanting to maintain unimpaired the reinsurance deposit for such registered policies at all future times, and specially pledging for their security all future premiums payable on American policies. (*Ibid*, p. 495, § 66.)

**70.** Any life insurance company of this State may, at any time, assign to the Insurance Commissioner securities, such as are described in section two [66], to the amount of twenty-five thousand dollars or more, in addition to the deposits required by that section, to be held by him in trust for the benefit of all holders of its policies and bonds registered under section seventy [71], and not to be transferred by him without the written application of the company, or its receiver duly appointed, and for the purpose of paying such holders. (*Ibid*, § 67.)

**71.** Upon being furnished by the depositing company with policies and annuity bonds, consecutively numbered, executed by the company in duplicate, each bearing the words, "The present net value of this policy is secured by pledge of public stocks or bonds and mortgages," and of such denominations and amounts as the company may require, within the limits prescribed by section six [70], the Commissioner shall register the same in books provided for the purpose, and countersign, seal, and deliver to the company the originals, and file the duplicates. Mutilated registered policies and annuity bonds, issued to a company, shall be received back by the Commissioner, and others delivered in lieu thereof, of like tenor and date; and in case of lost policies or bonds, he shall furnish certified copies of the duplicates on file. (*Ibid*, § 68.)

**72.** Receipts for renewal premiums or registered policies must be countersigned or stamped by the Insurance Commissioner, and no policies shall be marked off or canceled on the books of a registering company, except those the renewal receipts for which are returned to the Commissioner, or other proof satisfactory to the Commissioner is furnished, that they have not been taken or have ceased to be in force. (*Ibid*, § 69.)

**73.** The Commissioner shall value the policies and annuity bonds chartered under the last section, according to the rules prescribed by section 3, title 2 [14], and in no case shall the aggregate amount of the net value of said policies and bonds issued to any company exceed the value of the securities he holds by its transfer, as provided in section 2, title 5 [66]. He may, upon satisfactory proof presented in writing and filed with him, that the securities so held by him exceed the net present value of outstanding registered policies and annuity bonds issued to the depositing company, allow it to withdraw the excess. (*Ibid*, p. 496, § 70.)

**74.** Nothing in this act shall be construed as implying any obligation on the part of the State to pay policies or annuity bonds of companies, except as to the net value thereof by a proper application of the securities deposited or transferred to the objects declared by the act. (*Ibid*, § 71.)

**75.** So long as any deposit required by this article is kept good, and the depositing company is solvent, the Commissioner may



permit the company to collect the interest or dividends on its securities so deposited; and from time to time to withdraw any such securities, on depositing with him others of equal value and like character. (*Ibid*, § 72.)

**76.** Any life insurance company, organized under a law of Congress, shall elect one State, in which its policies shall be valued, and the certificate of the proper officer of such State that such has been done, shall be received by the Commissioner of this State, as of the same force and effect as if such company had been organized under the laws of such State. And such company shall comply with the law of the State so selected as regards the deposit required to be made therein for the protection of policy-holders; and the certificate of the Commissioner of such State that said deposit has been duly made, shall be received by the Commissioner of this State as of the same effect as if said company had been organized under the laws of the State so selected. (*Ibid*, § 73.)

**77.** Life Insurance companies doing business exclusively on the mutual plan, are hereby exempted from the provisions of sections one [65] and two [66] of this title, and may do business in this State, provided they have on hand, exclusive of all debts and liabilities, the net value of all their policies in force calculated as provided in subdivision four of section three of title II of this act [14], subject, however, to all other regulations and provisions of this act. (*Ibid*, § 74.)

#### MARINE INSURANCE COMPANIES.

**78.** No joint-stock marine insurance company shall hereafter be organized in this State, unless it has a paid-up capital of at least five hundred thousand dollars. (*Ibid*, § 75.)

**79.** No marine insurance company of any of the States in which the substantial provisions of this act shall be enacted, shall be required to make any deposit in this State. (*Ibid*, § 76.)

**80.** No foreign marine insurance company shall do business in this State, unless it has on deposit with the Commissioner of this State the sum of four hundred thousand dollars invested and valued as prescribed in section four of title III. [25], or unless it has complied with the next section. (*Ibid*, p. 497, § 77.)

**81.** A marine insurance company of a foreign nation which has its principal office for the United States in any State in which the substantial provisions of this act shall be enacted, may file with the Insurance Commissioner of this State a certificate made by the Insurance Commissioner of such other State, that he holds a deposit made by such company, such as is described in the last section. No deposit shall be required in this State from such company while the deposit so certified remains. (*Ibid*, § 78.)

**82.** All acts and parts of acts and laws of this State now in force, inconsistent or in conflict with the several provisions of this act are hereby repealed; but the repeal of such acts and laws shall not in any manner affect, injure or invalidate any vested rights of any insurance company, or any contracts, suits, rights, claims or demands that may have been heretofore duly and lawfully issued, commenced, made, performed, or that may exist in favor of or against any insurance company or other corporation, partnership, firm or person, under or by virtue or in pursuance of the said laws and acts, or any of them, but the same shall exist, be in force and carried out

as fully and effectually, to all intents and purposes, as if this act had not been passed. (*Ibid*, § 79.)

### TOWN INSURANCE COMPANIES.

**83.** It shall be lawful for any number of persons, not less than twenty-five, residing in adjoining towns in Goodhue, Dakota, Fillmore, Steele, Le Sueur, Freeborn, Wright, Chisago, Pine, Kanabec, Meeker, the seventh Senatorial district of Winona county, and Dodge county, in this State, who collectively shall own property of not less than twenty-five thousand dollars in value, which they desire to have insured, to form themselves into a company for mutual insurance against loss or damage by fire or lightning; which corporation may sue or be sued, contract or be contracted with, plead or be impleaded, in any court of law or equity within the State, and shall possess the usual powers and be subject to the usual duties of corporations; and the corporate name thereof shall embrace the name of the town in which the business office of said company shall be located. (*Laws of 1875, p. 106, § 1.*)

**84.** Every company so formed shall choose of their number not less than five nor more than nine directors to manage the affairs of such company, who shall hold their office for one year, and until others are elected; and such directors shall choose one of their number president and one secretary. (*Ibid, p. 107, § 2.*)

**85.** The directors of such company shall file their articles of association, together with a copy of their by-laws and the names of the officers of such company, in the clerk's office of the town in which the office of such company is located, and shall keep a record of their proceedings in a book to be kept for that purpose, together with the names of all persons insured, and the amount each person is insured, which record shall be kept open for the inspection of all the members of such company, from the hours of 9 o'clock A. M. to 4 o'clock P. M. of each secular day, the established holidays excepted. (*Ibid, § 3.*)

**86.** The directors of each company may issue such policies, signed by the president and secretary, agreeing in the name of the company to pay all losses or damages which may be sustained by fire or lightning for a term not exceeding five years, by the holders of such policies, and not exceeding the sum named in such policy. (*Ibid, § 4.*)

**87.** Every person so insured shall give his undertaking, bearing even date with the policy so issued to him, binding himself, his heirs and assigns, to pay his *pro rata* share to the company of all losses or damages by fire or lightning, which may be sustained by any member thereof, and every such undertaking shall, within five days after the execution thereof, be filed in the office of secretary of such company, and shall remain on file in such office except when required to be produced in court as evidence. He shall also, at the time of effecting such insurance, pay such percentage in cash, and such reasonable sum for a policy as may be required by the rules or by-laws of the company. (*Ibid, § 5.*)

**88.** Every member of such company, who may sustain loss or damage by fire or lightning, shall immediately notify the president of such company, or, in case of his absence, the secretary thereof, who shall forthwith convene the directors of such company, whose

duty it shall be, when so convened, to appoint a committee of not less than three nor more than five members of such company, to ascertain the amount of such loss; and in case of the inability of the parties to agree upon the amount of such damage, the claimant may appeal to the Judge of the District Court of such county, whose duty it shall be to appoint three disinterested persons as a committee of reference, who shall have full authority to examine witnesses and to determine all matters of dispute, who shall make their award in writing to the president, or, in his absence, to the secretary of such company, which award thereon shall be final. The said committee of reference shall each be allowed the sum of two dollars per day for each day's service so rendered, and the sum of five cents per mile for every mile necessarily traveled in the discharge of such duties, which shall be paid by the claimant, unless the award of such committee shall exceed the sum offered by the company in liquidation of such loss or damage, in which case said expenses shall be paid by the company. (*Ibid*, § 6.)

**89.** The companies formed under the provisions of this act may classify the property insured at the time of issuing policies thereon, under different rates, corresponding as nearly as may be to the greater or less risk from fire and loss which may attach to each several buildings or personal property insured. Whenever the amount of any loss shall be ascertained, which exceeds in amount the cash funds of the company, the president shall convene the directors of said company, who shall make an assessment upon all property insured to the amount for which each several piece of property insured in such company shall pay to cover all unpaid losses, taken in connection with the rate of premium under which it may have been classified. (*Ibid*, p. 108, § 7.)

**90.** It shall be the duty of the secretary, whenever such assessment shall have been completed, to immediately notify every person composing such company, by letter sent to his usual post-office address, of the amount of such loss, and the sum due from him as his share thereof, and of the time when and to whom such payment is to be made, but such time shall not be less than sixty nor more than ninety days from the date of such notice, and every person designated to receive such money may demand and receive two per cent., in addition to the amount due on such assessment as aforesaid, for his fees in receiving and paying over the same. (*Ibid*, § 8.)

**91.** Suits at law may be brought against any member of such company who shall refuse or neglect to pay any assessment made upon them by the provisions of this act, and the directors of any company so formed, who shall willfully neglect or refuse to perform the duties imposed upon them by the foregoing sections of this act, shall be liable in their individual capacity to the person sustaining such loss. (*Ibid*, § 9.)

**92.** No company formed under this act shall insure any property out of the limits of the town or towns in which the said company is located, nor shall they insure any property other than detached dwellings and their contents, and farm buildings and their contents, and live stock while on the premises or running at large, and hay and grain in the bin or stack, nor shall they insure any property within the limits of any incorporated city in this State. (*Ibid*, § 10.)

**93.** The directors of such company so formed shall be chosen by ballot, at the annual meeting thereof, which shall be held on the

first Tuesday of January in each year, unless otherwise determined by a majority of the voters in such company, and every person shall have one vote for each two hundred dollars for which he or she may be insured, but no person shall be allowed to vote by proxy at such election, excepting a woman. (*Ibid*, § 11.)

**94.** It shall be the duty of the secretary of every company as aforesaid, to prepare a statement showing the condition of such company on the day preceding their annual meeting, which statement shall contain the amount insured, the number of policies issued, and to whom, and the amount insured by each policy, and all other matters pertaining to the interest of such company, which statement shall be filed in the office of the Town Clerk in which said company may be located, on or before the fifteenth day of January in each year, and which statement shall also be read to the members of said company at their annual meeting. (*Ibid*, p. 109, § 12.)

**95.** Any member of such company may withdraw therefrom at any time, by giving notice in writing to the president, or, in his absence, to the secretary thereof, and paying his share of all claims then existing against said company; and the directors, or a majority thereof, shall have power to annul any policy by giving notice in writing to that effect to the holder thereof. And it shall also be the duty of the secretary, whenever any member of such company shall withdraw from his membership therein, to notify every other member thereof of such withdrawal, and in default of such notice no claim by the company upon any member for assessment shall be binding upon such member. (*Ibid*, § 13.)

**96.** Non-residents of any town in this State, owning property therein, may become members of any company founded under this act, and shall be entitled to all rights and privileges appertaining thereto, except that it shall not be lawful for such non-resident to become a director of said company, unless he be at the time of such membership a resident of a town adjoining the town or towns in which said company has been formed under the provisions of this act. (*Ibid*, § 14.)

**97.** The company so formed may adopt such by-laws for its regulations as are not inconsistent with the provisions of this act, and may therein prescribe the compensation of its officers. (*Ibid*, § 15.)

**98.** No company formed under this act shall continue for a longer term than thirty years. (*Ibid*, § 16.)

**99.** Any company organizing under the foregoing provisions to do a farm business only, may do such business by complying with the provisions of title three of the general reciprocal insurance laws of this State, so far as the same are applicable, but shall be exempt from complying with section twenty-eight, title three, of the same. (*Ibid*, § 17.)

#### ARSON AND INCENDIARISM.

**100.** Whoever willfully and maliciously burns in the night time the dwelling house of another, whereby the life of any person is destroyed, or in the night time willfully sets fire to any other building owned by himself or another, by the burning whereof such dwelling house is burned in the night time, whereby the life of any person is destroyed, shall suffer the same punishment as is provided for the crime of murder in the second degree; but if the



life of no person was destroyed, he shall be punished by imprisonment in the State prison not more than fourteen years nor less than seven years; and if, at the time of committing the offense, there was no person lawfully in the dwelling so burnt, he shall be punished by imprisonment in the State prison, not more than ten years nor less than three years. (*Statutes at Large*, 1873, p. 993, § 70.)

**101.** Whoever willfully and maliciously burns in the day time the dwelling house of another, or any building adjoining such dwelling house, and willfully and maliciously sets fire to any building owned by himself or another, by the burning whereof such dwelling house is burned in the day time, or in the day time willfully and maliciously sets fire to any building owned by himself or another, by the burning whereof such dwelling house is burned in the night time, shall be punished by imprisonment in the State prison not more than fifteen years, nor less than five years. (*Ibid*, p. 994, § 71.)

**102.** Whoever willfully and maliciously burns in the night time any meeting-house, church, court-house, town-house, college, academy, jail, or other building erected for public uses, or any ship, steamboat, or other vessel, or any banking-house, warehouse, store, manufactory, or mill of another, or any barn, stable, shop, or office of another, within the curtilage of any dwelling-house, or any other building, by the burning whereof any building mentioned in this section is burnt in the night time, shall be punished by imprisonment in the State prison not more than fifteen years nor less than five years. (*Ibid*, § 72.)

**103.** Whoever willfully and maliciously burns in the day time any building mentioned in the preceding section, the punishment for which if burnt in the night time, would be imprisonment in the State prison not more than fifteen years nor less than five years, shall be punished by imprisonment in the State prison not more than eight years nor less than four years. (*Ibid*, § 73.)

**104.** Whoever willfully and maliciously burns in the night time or day time, any banking-house, warehouse, store, manufactory, mill, barn, stable, shop, out-house, or other building whatever of another, other than is mentioned in the third section of this chapter (§ 72), or any bridge, lock, dam, or flume, shall be punished by imprisonment in the State prison not more than eight years nor less than four years; and whoever makes an unsuccessful attempt to commit either of the offenses mentioned in this or the preceding sections of this chapter, shall be punished by imprisonment in the State prison, for a term not exceeding five years nor less than one year. (*Ibid*, § 74.)

**105.** Whoever willfully and maliciously burns any pile or parcel of boards, timber, or other lumber, or any stack of hay, grain, or other vegetable product severed from the soil but not stacked, or any standing grain, grass, or other standing product of the soil, shall be punished by imprisonment in the State prison not more than two years nor less than six months. (*Ibid*, § 75.)

**106.** Whoever willfully burns any goods, wares, merchandise, or other chattels, or any dwelling house, hotel, store, or other building, which is at the time insured against loss or damage by fire, with intent to injure the insurer, whether such person is the owner of the property burnt or not, shall be punished by imprisonment in the State prison not more than ten years nor less than three years. (*Ibid*, p. 995, § 77.)

## INQUESTS IN CASES OF FIRE.

**107.** When property is destroyed by fire, and a complaint within thirty days thereafter is subscribed and sworn to by any person before any justice, police court, or any municipal court, or any justice of the peace, alleging that reasonable grounds exist for believing that the fire was caused by design, and the mayor and chief engineer of fire department, or a majority of the aldermen or selectmen of the city or town, respectively, in which said property is situated, certify in writing that in their opinion the same is a proper case for investigation, such court of justice shall forthwith issue a warrant to the constable of the place where the property was destroyed, requiring him forthwith to summon six good and lawful men of the county to appear before the court or justice at a time and place expressed in the warrant, to inquire when and by what means the fire originated, which warrant shall be served and returned in the manner prescribed by the general statutes of the State of Minnesota for the service and return of other warrants; and the constable and jurors shall be subject to the penalties therein specified for similar neglect. If any person so summoned does not appear, the constable shall, by order of the justice or court, return some person from the bystanders to complete the number. (*Laws of 1874, p. 186, § 3.*)

**108.** The testimony shall be reduced to writing by the presiding justice, or some person, by his direction, and subscribed by the witnesses. (*Ibid, p. 187, § 4.*)

**109.** The jury, after hearing the testimony and making all needful inquiry shall draw up and deliver to the justice or court their inquisition under their hands, in which they shall find and certify when and by what means the fire was caused, and said inquisition and testimony thus subscribed shall, within one week thereafter, be filed by the magistrate with the Clerk of the District Court for the county. (*Ibid, § 8.*)

**110.** If any person is charged by the inquest with having willfully and maliciously caused said fire, and such person is not in custody, the justice or court before whom such inquisition is holden shall issue process forthwith for his apprehension, and such warrant shall be made returnable before any justice or court having jurisdiction of the case, who shall proceed therein in the same manner as required by justice or court in case of felony. (*Ibid, § 9.*)

**111.** For General Provisions relating to Corporations see Statutes at Large, 1873, pp. 470-473, 909-912.

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# INSURANCE STATUTES OF MISSISSIPPI.

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## CONSTITUTIONAL PROVISIONS CONCERNING CORPORATIONS.

**1.** The property of all corporations for pecuniary profits, shall be subject to taxation, the same as that of individuals. (*Art. 12, § 13.*)

## FOREIGN INSURANCE COMPANIES.

**2.** It shall not be lawful for any agent of any insurance company, incorporated by any other State than the State of Mississippi, directly or indirectly to take risks or transact any business of insurance, in this State, without first procuring a certificate of authority from the Auditor of Public Accounts; and before obtaining such certificate, such agent shall furnish to the said Auditor a statement, under the oath of the president or secretary of the company for which he may act, which statement shall show;

*First.*—The name and locality of the company.

*Second.*—The amount of its capital stock.

*Third.*—The amount of its capital stock paid in.

*Fourth.*—The assets of the company, including: First, the amount of cash on hand, and in the hands of agents or other persons; second, the real estate, unincumbered; third, bonds owned by the company, and how they are secured, with the rate of interest thereon; fourth, debts to the company, secured by mortgage; fifth, debts otherwise secured; sixth, debts for premiums; seventh, all other securities.

*Fifth.*—The amount of liability, due or not due, to banks or other creditors, by the company.

*Sixth.*—Losses adjusted and due.

*Seventh.*—Losses adjusted and not due.

*Eighth.*—Losses unadjusted.

*Ninth.*—Losses in suspense, waiting for further proof.

*Tenth.*—All other claims against the company.

*Eleventh.*—The greatest amount insured in any one risk.

*Twelfth.*—The greatest amount allowed, by the rules of the company, to be insured in any one city, town or village.

*Thirteenth.*—The greatest amount allowed to be insured in any one block.

*Fourteenth.*—The act of incorporation of each company.

*Fifteenth.*—The certificate of deposit of the State Treasurer, as hereinafter provided.

This statement shall be filed in the office of said Auditor, together with a written instrument, under the seal of the company, signed by the president and secretary, authorizing such agent to acknowledge service of process, for and on behalf of such company, consenting that service of process upon such agent shall be taken and held



to be as valid as if served upon the company, according to the laws of this State, and waiving all claim of error, by reason of such service; and no insurance company, or agent of any insurance company, incorporated by any other State, shall transact any business of insurance in this State unless such company is possessed of at least one hundred and fifty thousand dollars, of actual capital, invested in stocks of at least par value, or in bonds, or mortgages of real estate, worth double the amount for which the same is mortgaged; and upon filing the aforesaid statement and instrument with the Auditor, and furnishing him with satisfactory evidence of such investment, as aforesaid, it shall be the duty of said Auditor to issue a certificate thereof, with authority to transact business of insurance to the agent applying for the same. (*Revised Code, 1871, p. 538, § 2442.*)

3. Section 2442, of the Revised Code of 1871, is hereby so amended, that in case the agent therein provided for should remove from the State, or abscond or conceal himself so that he cannot be personally served with process for such company; or if from any cause, such company should be without an agent in this State, authorized to acknowledge service of process for such company, such company shall be liable to attachment in the same manner, in all respects, as other foreign corporations are by the laws of this State. (*Laws of 1874, p. 16, § 1.*)

4. Writs of attachment, as provided for in the first section of this act, may be served on the State Treasurer of this State as such, as garnishee of such company; and said Treasurer shall answer at the return term of such writ, as garnishees are now required by law to answer, as to the amount of money such company may have on deposit, or otherwise, in the State Treasury, and the amount and character of effects such company may so have on deposit, as required by section twenty-four hundred and forty-six of the Revised Code of 1871. (*Ibid, § 2.*)

5. In case said Treasurer, in his answer, as provided for in section two of this act, shall state that such company has money or other effects in said treasury, judgment may be rendered against such company for the amount established to be due, in case such company should defend the suit, or for the sum demanded in case such company should make default, and execution may issue therefrom, directed to the Sheriff or other proper officer of Hinds county, of this State, who shall present the same to said Treasurer, who, upon such presentation, shall pay to said Sheriff or other officer, in the money such company may have in said treasury, in case there is money enough for that purpose, the amount of such execution, with interest and all costs; and in case there is not enough money, or in case there be no money of such company in said treasury, then said Treasurer shall deliver to said Sheriff or other officer, enough of the effects of such company as, when sold under said execution, will fully pay off and discharge the same. (*Ibid, § 3.*)

6. Said Sheriff or other officer, upon the receipt of such effects as aforesaid, shall sell the same as now provided by law for the sale of personal property by Sheriff under execution, and return said execution, with his proceedings endorsed thereon; and the money as now required by law in returns of executions and the receipts of said Sheriff or other officer, shall be a voucher in the hands of said Treasurer, against such company. (*Ibid, p. 17, § 4.*)

7. Attachments provided for by this act, may be issued by any

officer now authorized by law to issue attachments, and may be made returnable before any court having jurisdiction, in any county in this State, without regard to the situation of the property attached or the place of residence of the garnishee. (*Ibid*, § 5.)

8. Said Treasurer, garnishee, and said Sheriff or other officer, shall be allowed the same compensation and fees as now allowed by law to garnishees and Sheriffs in other attachments against foreign corporations. (*Ibid*, § 6.)

9. It shall be unlawful for any agent of any company, incorporated by any foreign government other than a State of this Union, to transact any business of insurance in this State, without procuring a certificate of authority from the Auditor, such agent having first filed, under oath, in the office of said Auditor, a statement, setting forth the charter, or act of incorporation of the company, for which he or they may act, and the matters required to be specified by the last preceding section, and the authority therein mentioned, and furnishing evidence, to the satisfaction of the Auditor, that such company has invested in the stocks of some one or more of the States of this Union, or of the United States, the amount of one hundred and fifty thousand dollars, and that such stocks are held by citizens of the United States; and the said agent of such company, filing said statement, and furnishing evidence of investment, as aforesaid, shall be entitled to a certificate of authority, in like manner as is provided for in the first section of this article. (*Revised Code*, 1871, p. 539, § 2443.)

10. It shall be the duty of the agent, in either of the foregoing sections mentioned, before taking any risks, or transacting any business of insurance, in this State, to file in the office of the Chancery Court in the county, in which he may desire to establish an agency for such insurance company, a copy of the statement required to be filed with the Auditor, as aforesaid, together with the certificate of said Auditor, which shall be carefully preserved, for public inspection, by said clerk, and also to cause said statement and certificate to be published in some newspaper of general circulation in said county, for three successive weeks; *Provided*, That said statement and certificate had not been previously published at Jackson, in this State, in the newspapers of general circulation, which publication shall be deemed sufficient. (*Ibid*, p. 540, § 2444, *as amended by laws of 1872*.)

11. The statement and evidence of investment, required by this chapter, shall be renewed annually, on the first day of March in each year; and the Auditor, on being satisfied that the capital, securities and investments remain secure as at first, shall furnish a renewal of the certificate, as aforesaid; and the agent obtaining such certificate, shall file the same, together with the statement on which it was obtained or renewed, in the office of the Clerk of the Chancery Court of the county in which such agency is established, and shall cause the same to be published, in at least one newspaper of said county, if any newspaper shall be there printed, for three weeks; *Provided*, That said statement and certificate had not been previously published at Jackson, in this State, in the newspapers of general circulation, which publication shall be deemed sufficient. (*Ibid*, § 2445, *as amended by laws of 1872*.)

12. The agent of any insurance company, incorporated by any other State of the Union, or by any other foreign kingdom or country whatever, outside the limits of the United States, in addition to

the matters and things hereinbefore required, proposing to do business, or actually engaged in doing business in this State, shall deposit with the State Treasurer, for each company whose capital does not exceed two hundred and fifty thousand dollars, ten thousand dollars; for each company whose capital exceeds two hundred and fifty thousand dollars, but does not exceed five hundred thousand dollars, the sum of fifteen thousand dollars; and for all others, the sum of twenty thousand dollars, in warrants of the Auditor, drawn upon the Treasurer, or in certificates of indebtedness, issued under the act of the legislature of this State, approved June 13, 1870, or in the currency of the United States, as hereinafter provided, which shall remain on deposit, as aforesaid, so long as said company shall continue to do business in this State, and which shall not be withdrawn, unless all losses incurred on any policy of life, fire or marine risk, shall have been adjusted and paid, or adjudicated by a court of competent jurisdiction, in favor of said insurance company, and after six months' notice shall have been given to the Treasurer of the intention of such withdrawal. (*Ibid*, § 2446.)

**13.** Upon the deposit made with the Treasurer, under section two thousand four hundred and forty-six, of this article, the Treasurer shall issue to said insurance company, or its agent, a certificate of deposit therefor, which certificate shall state upon its face, that the credit of the State is faithfully pledged for the redemption of the same; when the requirements of this act are complied with, and upon such deposit, there shall be allowed and paid to such insurance company, or its agent, interest at the rate of six per cent. per annum, payable annually, at the Treasurer's office, in the city of Jackson; and the Treasurer shall, on the first of January in each year, or some day thereafter, pay to such insurance company, or its agent, all interest which may accrue, and write across the face of such certificate of deposit, that the interest has been paid on the same, specifying the date up to which such payment was made, and shall take and file in his office, a receipt from such insurance company, or its agent, in acknowledgment of the payment of the interest due thereon. (*Ibid*, p. 541, § 2447.)

**14.** The Treasurer shall set apart, within ninety days prior to the first day of January upon which such interest may become due, a sufficient sum, in current funds, to meet the interest that will become due upon the succeeding first day of January, and pay the same over to the party authorized to receive it, at the time and in the manner provided for in section two thousand four hundred and forty-seven of this article. (*Ibid*, § 2448.)

**15.** The Treasurer shall open an account with each insurance company availing itself of the provisions of this article, and note the character of funds paid in by each insurance company. (*Ibid*, § 2449.)

**16.** If a judgment or decree, against any foreign insurance company, recovered on any policy of insurance, shall remain unsatisfied, for the space of thirty days after the rendition thereof, the plaintiff may file with the Treasurer a transcript of the record of such recovery, accompanied with the certificate of the Clerk and Sheriff of the county, that such judgment or decree is unpaid, and the execution has not been suspended by writ of error or appeal. The Treasurer shall thereupon pay, to the parties holding such judgment or decree, the full amount, with costs thereon, and credit it to the amount on deposit, such credit to be replaced in sixty days,



on notice to the agent; *Provided*, The judgment or decree does not exceed the deposits of said company then in his hands; *and Provided, further*, That the Treasurer shall not be required to pay over any of said funds, until a final decision, in case of an injunction or writ of error or appeal. (*Ibid*, § 2450.)

**17.** Whenever a policy of insurance issued by any insurance company, which has, or shall have made the deposit in the treasury required by section 2446 of the Revised Code [12], and which has ceased to take risks in this State, shall have been canceled or surrendered to an agent of any such company before the expiration of the term for which the same was issued, and the party insured shall be entitled to repayment of the unearned premium thereon, the Treasurer shall, upon production of the certificate of a duly authorized agent of such company, showing the amount of unearned premium so due, pay the same out of the deposit made by such company, subject to the same conditions provided for in section 2450 [16], in case of judgment rendered against such insurance company remaining unsatisfied, and before such insurance company shall recommence business shall replace the amount so paid out of such deposit, as required in said section 2450. (*Laws of 1873, p. 65, § 1.*)

**18.** Whenever it shall appear to the treasurer that any such insurance company has become insolvent, he shall immediately advertise in some newspaper of general circulation in this State, for sixty days, notifying all persons holding claims against such company for losses and unearned premiums, to present the same to the treasurer duly certified as provided for in preceding section within thirty days from the first publication of said notice, and shall then, if the claims exceed the amount on deposit, proceed to distribute the funds on hand, first to losses, if a sufficiency to pay in full, otherwise to such losses *pro rata*, and if a balance then remain, he shall proceed to pay the same to claims for unearned premiums *pro rata*, if not a sufficiency to pay all in full; and should any balance remain in the treasury after paying all claims for losses and returned premiums, such balance shall be paid over to the order of the president of such insurance company under the seal of said company. Nothing in this act shall be so construed as to prevent claimants for losses from bringing suits as now provided by law, where any such insurance company shall have failed to cause any such loss to be adjusted within the time prescribed by said section to which this is an amendment. (*Ibid*, § 2.)

**19.** All warrants deposited by insurance companies, and withdrawn under the provisions of this act or any other, shall show on their face the date to which interest has been paid, and the treasurer is hereby required to make such indorsement thereon, and if such warrants are afterwards funded, the coupons of the bonds in which they are funded shall be detached for the time that interest has been paid. (*Ibid*, p. 66, § 3.)

**20.** The legislature may, at any time, change the character of the deposit, and require the said foreign insurance companies to deposit, in lieu of the funds mentioned in section two thousand four hundred and forty-six of this article, stocks of the United States, or other securities bearing interest; in which event the State will pay no interest on such deposit, and allow the several companies the benefit thereof; such stocks to be converted into money to pay losses, as provided in the last preceding section of this article. (*Revised Code, 1871, p. 541, § 2451.*)



**21.** Copies of all papers, required by this article to be deposited in the office of the Auditor, certified under the hand and seal of such Auditor, to be true and correct copies of such papers, shall be received as evidence in all courts and places, in the same manner, and have the same force and effect, as the originals would have, if produced. (*Ibid*, p. 542, § 2452.)

**22.** Any person violating the provisions of this article shall, upon conviction thereof, in any court of competent jurisdiction, be fined in any sum not exceeding one thousand dollars, or imprisoned in the county jail, not more than thirty days, or by both such fine and imprisonment. (*Ibid*, § 2453.)

**23.** The Auditor, for receiving such statement, and issuing the license, shall receive the sum of two dollars and fifty cents, for each license so granted; and the Clerk of the Chancery Court of each county where the agency may be located, for filing each statement, shall be entitled to one dollar and fifty cents. (*Ibid*, § 2454.)

### ARSON AND INCENDIARISM.

**24.** Every person who shall willfully set fire to or burn, in the night-time, any house, ship, vessel or boat, in which there shall be at the time, some human being, usually staying, lodging, or residing at night, upon conviction thereof, shall suffer death, or be imprisoned in the penitentiary for life. (*Revised Code*, 1871, p. 551, § 2490.)

**25.** Every person who shall willfully set fire to or burn, in the day-time, any house, ship, vessel or boat, in which some human being shall, at the time, usually stay, lodge or reside, upon conviction thereof, shall be imprisoned in the penitentiary, for a term not less than ten years. (*Ibid*, § 2491.)

**26.** Every person who shall willfully set fire to or burn, in the night-time, any shop, warehouse, out-house or other building, not mentioned in the preceding sections, but adjoining to, or within the curtilage of any house, in which some human being shall usually stay, lodge or reside at night, so that such human being, or the house in which such human being shall so usually stay, lodge or reside at night, shall be thereby endangered, such person so offending, shall be adjudged guilty of arson, and upon conviction thereof, shall be imprisoned in the penitentiary, not less than ten years. (*Ibid*, § 2492.)

**27.** Every person committing the offense mentioned in the last preceding section, in the day-time, instead of the night, shall, in like manner, be adjudged guilty of arson, and be imprisoned in the penitentiary, not more than ten years, nor less than seven years. (*Ibid*, p. 552, § 2493.)

**28.** Every person who shall willfully set fire to or burn, either in the night-time or day-time, any house of public worship, or any school-house or cotton-house, gin-house, barn, stable, mill-house, of any description, or any house or building erected for manufacturing purposes, or ship or vessel, or any public building or office of any kind, or any other house or building, not embraced and provided for in the preceding sections of this chapter, shall, on conviction thereof be imprisoned in the penitentiary, not more than ten years. (*Ibid*, § 2494.)

**29.** Every person who shall willfully set fire to or burn, any

building or vessel, or any goods, wares or merchandise, or chattels of any kind, which shall at the time be insured against damage or loss by fire, with intent to prejudice or injure the insurer, whether the same be the property of the offender or of any other person, shall, upon conviction thereof, be imprisoned in the penitentiary, not less than seven, nor more than ten years. (*Ibid*, § 2495.)

**30.** Every person who shall, either in the day-time or in the night-time, willfully set fire to, or burn any bridge, railroad or plank road, or any goods, wares or merchandise, or any chattels of any kind, or any stack, bale or heap of hay, fodder, grain or cotton, or other produce, or any crop of cotton, grain or produce, growing or standing in the field; or any nursery, orchard, or grove of trees not his own; or any fence around any field, farm, or enclosure of another; or any cordwood, in the cord or in ricks, not belonging to himself, shall, on conviction, be imprisoned in the penitentiary, not more than seven, nor less than two years; or fined and imprisoned in the county jail, at the discretion of the court. (*Ibid*, § 2496.)

### EMBEZZLEMENT.

**31.** If any director, agent, clerk, servant, or officer of any incorporated company, or if any trustee or any factor, carrier, or bailee for reward, or any clerk, agent or servant of any private person, shall embezzle, or fraudulently secrete, conceal or convert to his own use, any goods, rights in action, money, or other valuable security, effects, or property of any kind or description, which shall have come, or been entrusted to his care or possession, by virtue of his office, place or employment, either in mass or otherwise, he shall be deemed guilty of embezzlement, and upon conviction thereof, shall be imprisoned in the penitentiary not more than five years, or fined not more than one thousand dollars, and imprisoned in the county jail, not more than one year, or either, at the discretion of the court. (*Revised Code*, 1871, p. 562, § 2547.)

**32.** For General Provisions relating to Corporations, see *Revised Code*, 1871, pp. 529-532.

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# INSURANCE STATUTES OF MISSOURI.

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*Revised by Hon. Celsus Price, Superintendent of Insurance.*

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## CONSTITUTIONAL PROVISIONS CONCERNING CORPORATIONS.

**1.** The General Assembly shall not pass any local or special law: Creating corporations, or amending, renewing, extending or explaining the charter thereof: Granting to any corporation, association or individual any special or exclusive right, privilege or immunity. (*Art. 4, § 53.*)

**2.** All existing charters, or grants of special or exclusive privileges, under which a *bona fide* organization shall not have taken place, and business been commenced in good faith, at the adoption of this Constitution, shall thereafter have no validity. (*Art. 12, § 1.*)

**3.** No corporation, after the adoption of this Constitution, shall be created by special laws; nor shall any existing charter be extended, changed or amended by special laws, except those for charitable, penal or reformatory purposes, which are under the patronage and control of the State. (*Ibid, § 2.*)

**4.** The General Assembly shall not remit the forfeiture of the charter of any corporation now existing, or alter or amend such forfeited charter, or pass any other general or special laws for the benefit of such corporations. (*Ibid, § 3.*)

**5.** In all elections for directors or managers of any incorporated company, each shareholder shall have the right to cast as many votes in the aggregate as shall equal the number of shares so held by him or her in said company, multiplied by the number of directors or managers to be elected at such election; and each shareholder may cast the whole number of votes, either in person or by proxy, for one candidate, or distribute such votes among two or more candidates; and such directors or managers shall not be elected in any other manner. (*Ibid, § 6.*)

**6.** No corporation shall engage in business, other than that expressly authorized in its charter, or the law under which it may have been or hereafter may be organized, nor shall it hold any real estate for any period longer than six years, except such as may be necessary and proper for carrying on its legitimate business. (*Ibid, § 7.*)

**7.** No corporation shall issue stock or bonds, except for money paid, labor done or property actually received, and all fictitious increase of stock or indebtedness shall be void. The stock and bonded indebtedness of corporations shall not be increased, except in pursuance of general law, nor without the consent of the persons holding the larger amount in value of the stock first obtained at a meeting called for the purpose, first giving sixty days' public notice, as may be provided by law. (*Ibid, § 8.*)

8. Dues from private corporations shall be secured by such means as may be prescribed by law, but in no case shall any stockholder be individually liable in any amount over or above the amount of stock owned by him or her. (*Ibid*, § 9.)

9. No corporation shall issue preferred stock without the consent of all the stockholders. (*Ibid*, § 10.)

10. The term "corporation," as used in this Article, shall be construed to include all joint stock companies or associations having any powers or privileges not possessed by individuals or partnerships. (*Ibid*, § 11.)

### INSURANCE DEPARTMENT.

11. There is hereby created an insurance department, which shall be charged with the execution of all laws now in force or which may hereafter be enacted in relation to insurance, and insurance companies doing business in this State. (*Wagner's Statutes*, 1870, p. 732, § 1.)

12. The chief officer of said department shall be designated as the Superintendent of the Insurance Department. He shall be a citizen of this State and experienced in the matters of insurance, and be appointed by the Governor by and with the advice and consent of the Senate, and shall hold his office for a term of four years from the first day of March, A. D. eighteen hundred and sixty-nine; but the Governor shall have power to suspend him from office whenever in his opinion the public interest may require it, or with the advice and consent of the Senate to remove him from office; and if a vacancy shall at any time occur, the same shall be filled by the Governor by appointment for the unexpired term, subject to the confirmation of the Senate at its next session. It shall not be lawful for the Superintendent or his deputy to hold any position as officer, agent or employee of any insurance or assurance company. (*Ibid*, § 2.)

13. Within twenty days after receiving his commission, and before entering upon the duties of his office, he shall take the oath of office prescribed by the constitution of this State, and shall give a bond to the State of Missouri in the sum of one hundred thousand dollars, with five or more good and sufficient securities, to be approved by the Attorney-General and State Auditor, conditioned for the faithful discharge of his duty, which oath and bond shall be filed in the office of the Secretary of State. (*Ibid*, p. 733, § 3.)

14. Said Superintendent may appoint a deputy who shall be subject to removal at pleasure by the Superintendent, and who shall possess all the powers and perform all the duties attached by law to the office of Superintendent during a vacancy in such office, and during the absence, inability or suspension of his principal. Said Superintendent shall be responsible for the acts of his deputy, who shall before entering upon the duties of his office, take the oath as required of the Superintendent in the third section of this act. (*Ibid*, § 4.)

15. Said Superintendent shall receive an annual salary of (4,000) four thousand dollars, and his deputy an annual salary of two thousand dollars, which salaries shall be paid quarterly, in the manner provided by the third section of the thirty-first chapter of the General Statutes in regard to the salaries of State officers. (*Ibid*, § 5.)

16. The said Superintendent shall, with the approval of the

Governor, devise a seal with suitable inscriptions for his office, a description of which, with a certificate of approval by the Governor, shall be filed in the office of the Secretary of State with an impression thereof; which seal shall thereupon be, and become the seal of the office of the Superintendent of the Insurance Department, and the same may be renewed whenever necessary. Every certificate or other paper executed by said Superintendent in pursuance of any authority conferred on him by law, and sealed with his seal of office, and all copies of papers in the office of said Superintendent, certified by him and authenticated by said seal, shall, in all cases, be evidence equally and in like manner as the originals, and shall have the same force and effect as the originals thereof would, in any suit or proceeding in any court of this State. (*Ibid*, § 6.)

**17.** The said Superintendent shall have his office in the city of St. Louis, and shall keep the same open for business at all proper hours. He shall procure rooms necessary for his office, and provide a suitable safe and furniture therefor. He may also provide stationery, fuel, printing, and such other things as may be necessary for the transaction of the business of his office, including sufficient clerical and actuarial force therefor, and may employ persons to make personal examinations of the conditions and affairs of insurance companies, when necessary, as required by law, and also competent legal counsel in respect to such questions and proceedings as may arise or be required in the proper discharge of his duties; *Provided, however*, That he shall not employ in any capacity whatever, to perform any service, any person who is an officer, agent, or employee of any insurance company or association. He shall, out of the fees and assessments which he is by law authorized to collect, pay all expenses incurred under the foregoing provisions, taking proper vouchers therefor; and before said vouchers shall be paid, the said vouchers shall first be approved by at least three presidents of insurance companies in St. Louis. (*Ibid*, § 7, *as amended by laws of 1870, p. 50, § 1.*)

**18.** All the expenses of the department hereby created shall be paid out of the fees and allowances named in this act, and the State shall not become in any manner responsible for any expenses growing out of the creation of this department, or any charges connected therewith. (*Ibid*, p. 734, § 8.)

**19.** It shall be the duty of the Superintendent of the Insurance Department to file in his office, and safely keep all books and papers required by law to be filed therein, to issue certificates of authority to transact insurance business in this State to any companies who have fully complied with the laws of this State, and to issue such other certificates as are required by the laws of this State in the organization of insurance companies, and the transaction of the business of insurance; and generally to do and perform with justice and impartiality all such duties as are or may be imposed upon him by the laws regulating the business of insurance in this State. (*Ibid*, § 9.)

**20.** It shall be the duty of said Superintendent to prepare and furnish on demand, to all insurance companies and agents doing business in this State, blank forms for such statements or reports as may by law be required of them. (*Ibid*, § 10.)

**21.** He shall also make, on or before the second Monday in February, in each year, or as soon thereafter as may be practicable, to the Legislature, if the same be in session, otherwise to the Gov-



ernor, to be forwarded by him to the Legislature within ten days after the next meeting thereof, a report of the affairs of the Insurance Department; which report shall contain a tabular statement and synopsis of the annual statements of all the insurance companies doing business in this State, and such other matters as in his opinion may be for the benefit of the public, and shall make such recommendations as he shall deem proper in regard to the insurance laws of this State. Prior to the first day of January, 1871, the Superintendent shall make, or cause to be made, in the manner provided by sections twenty-nine and forty-one of an act entitled "An act for the incorporation and regulation of life insurance companies," approved March 10, 1869, an examination and valuation of the assets and liabilities of every life assurance company doing business in this State, which has not been heretofore examined by him or under his direction; and if the said Superintendent shall be satisfied, after such examination and valuation is made, that any company is in an unsound condition, or that its actual assets are less than all its liabilities, he shall proceed against it as provided by law in the case of unsound life insurance companies. The cost of making the examination and valuation herein designated, shall, in each case, be assessed upon and paid by the company examined. Complete copies of the annual statements of all insurance companies doing business in the State, shall be published in an appendix to the annual report herein provided for. Two thousand copies of such report shall be published by the State, subject to the order of the Superintendent of the Insurance Department, and at the expense of the Department. (*Ibid*, § 11, as amended by laws of 1870, p. 51, § 2.)

**22.** The records of said department shall at all times be open to the inspection of the public, subject to such rules as may be made by the Superintendent for their safe keeping, free from any charge whatever; and he shall, on demand, furnish certified copies of any paper, report, or document on file in his office, to any person requesting the same, upon payment of the fees allowed by the fifteenth section of this act. (*Ibid*, § 12.)

**23.** Said Superintendent shall have power to investigate and inquire into the business of insurance transacted in this State, and to administer oaths; and any person who shall refuse, after demand or notice, to give said Superintendent full and truthful information, and answer in writing to any inquiry or question made in writing by him in regard to the business of insurance carried on by such person, or to appear and testify, under oath, before said Superintendent, in regard to the same subject, shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punished by a fine not exceeding one thousand dollars, or by imprisonment not exceeding three months; and any person who shall willfully and corruptly make or sign any false statement, upon oath, in answer to any question in writing or otherwise, which may, in the course of any examination or inquiry authorized by law, be put to him by said Superintendent, or by any person appointed by said Superintendent to make such examination or inquiry in regard to the business of insurance carried on by such person, or by any company whereof such person is or has been an officer, agent, employee, or member, or who shall willfully and corruptly file, or cause or present to be filed in the office of said Superintendent, any statement or other paper required by law to be made under oath, such statement or paper being signed and sworn to by such person, and containing any false affirmation

in respect to any material matter, shall, on conviction thereof, be adjudged guilty of a misdemeanor, and shall be punished as by law in such case provided. (*Ibid*, § 13, as amended by laws of 1870, p. 51, § 3.)

**24.** Said Superintendent shall immediately upon obtaining a suitable office, apply to and receive from the Secretary of State or any other officer, or clerk of any court, all books, papers, documents and records pertaining to the subject of insurance now on file and kept in his office, and shall deposit and safely keep the same in his office. In case any of the said records are contained in books devoted to other purposes, the officer having charge thereof shall deliver a certified copy of the same; and every Superintendent shall, upon retiring from office, deliver to his qualified successor the possession of his office, and all furniture, papers and property belonging to the same. (*Ibid*, p. 735, § 14)

**25.** There shall be paid to the Superintendent by every company to whom this act shall apply, the following fees: For filing the declaration required by this act on the organization of each company, fifty dollars (\$50). For filing statement and certified copy of charter, required of companies not organized under the laws of this State, fifty dollars (\$50). For filing annual statement of any company doing business in this State, fifty dollars (\$50). For filing supplementary annual statement of any company doing business in this State, twenty-five dollars (\$25). For filing any other papers required to be filed in his office, ten dollars (\$10). For furnishing copies of papers, records and documents filed in his office, per folio, twenty cents (20 cts). For affixing seal of office, one dollar (\$1.00). (*Ibid*, § 15.)

**26.** The Superintendent shall collect such fees and the assessments mentioned in the seventeenth section of this act, and shall pay monthly into the State treasury whatever sums may be thus collected and received by him, except that he shall therefrom reserve sufficient to pay and provide for the expenses authorized by the seventh section of this act for the current fiscal year; and he is authorized to apply so much as may be necessary, out of the fees which he may hereafter receive, to pay expenses such as mentioned in said seventh section heretofore incurred and not already provided for. For all payments by him he shall take proper vouchers, and shall take receipts from the State Treasurer for all moneys paid by him to said Treasurer as above provided. The accounts of said Superintendent, for all receipts and disbursements by him, shall be audited, adjusted and settled at the close of each fiscal year of the State by the Auditor of Public Accounts. The Superintendent shall in the annual report required by the eleventh section of this act, set forth in a statement, verified by oath, the various sums received and disbursed by him, and from, and to whom, and for what purpose. Suits may be brought by said Superintendent, as such, to recover any fees or other sums, which he may be by law authorized to demand or collect, and any company or person liable for any fees or assessments, who shall neglect or refuse to pay the same within ten days after demand thereof in writing by said Superintendent, shall be liable to pay double the amount of such fees or assessments, and any judgment recovered in such case shall be for double such amount and costs. (*Ibid*, § 16, as amended by laws of 1870, p. 52, § 4.)

**27.** In case the expenses of this department, including the

salaries paid to the Superintendent and Assistant Superintendent, shall exceed the amount collected under the fifteenth section of this act, the Superintendent shall, annually, assess upon all insurance companies doing business in this State, a sum equal to such excess, which he shall collect and apply in like manner as by this act authorized and required in respect to the fees payable by such companies. Such assessments shall be made in proportion to the relative amounts of the assets of each company. (*Ibid*, p. 736, § 17, *as amended by laws of 1870, p. 52, § 5.*)

**28.** Said Superintendent shall keep and preserve in a permanent form a full record of his proceedings, including a concise statement of the condition of every company whose affairs he shall have examined. (*Ibid*, § 18.)

**29.** *Provided*, That nothing in this act contained shall be so construed as to prevent the repeal or amendment of the same, or any section thereof, by the present or any future General Assembly of this State. (*Ibid*, § 19.)

**30.** It shall be the duty of the Superintendent of the Insurance Department, upon receipt of securities from any insurance company, to forthwith deposit the same, in the presence of the president, vice-president, or authorized agent of the company, in a strong iron box which shall require two distinct and different keys to unlock the same; one key to be kept by the Superintendent and the other by the company; and the box shall not be opened except in the presence of the Superintendent and said president, vice-president, or authorized agent of the company. The boxes shall be kept in the vault of the "Safe Deposit Company of Saint Louis," and the insurance companies shall pay the several fees for the safe keeping of their respective boxes. (*Laws of 1872, p. 43, § 1.*)

### INSURANCE COMPANIES OTHER THAN LIFE.

**31.** Any number of persons, not less than thirteen in number, a majority of whom shall be citizens of this State, may associate and form an incorporation, association, or company for the following purposes, to wit: First, To make insurance on houses, buildings, merchandise, furniture, and all other kinds of property, against loss or damage by fire; to make all kinds of insurance on ships, steamboats and other vessels and their freight and cargoes, and also on goods, merchandise, produce, and all other kinds of property in the course of transportation, whether by land or water, and to lend money on bottomry and respondentia: Second, To insure horses, cattle and other live stock against loss or damage by accident, theft, disease or death, or any other unknown contingent event whatever, which may legally be the subject of insurance: Third, To make insurance upon the health of individuals, and against personal injury, disablement or death resulting from traveling or general accidents, by land or water; to insure the fidelity of persons holding places of public and private trust; and also to receive on deposit and insure the safe-keeping of books, papers, moneys, stocks, bonds and all other kinds of personal property; and to do any and all other kinds of legitimate insurance business, excepting that of life assurance and dealing in annuities, and excepting also the kinds of insurance included in the first and second divisions or classes named in this section. No company shall engage in more than one of the

kinds or classes of insurance above mentioned, and no company that has been organized to do the business mentioned in one of the three classes aforesaid shall issue policies or do business connected with the kind of insurance mentioned in either of the other classes. (*Wagner's Statutes*, 1870, p. 759, § 1.)

**32.** Corporations may be formed for the purpose of doing the business mentioned in the first of the three classes or divisions named in the first section of this act, either on the stock or mutual plan; and for the purpose of doing the business mentioned in the second and third classes or divisions on the stock plan; and every corporation so formed upon the mutual plan shall have the word "mutual" affixed to the name which it assumes; and it shall not be lawful for any corporation so formed to do business on any other plan than that upon which it is organized; or for a corporation formed upon the mutual plan, in any manner, to use its name, or to make publication thereof, unless the word herein provided be affixed thereto in plain letters, of the size of the letters in which the balance of the name is printed; and no such corporation shall adopt the name of any existing company or association transacting the same kind of business, or a name so similar as to be calculated to mislead the public; and mutual companies shall not issue policies known as stock policies, or do business as joint stock companies, or upon the joint stock plan (*Ibid*, p. 760, § 2, as amended by laws of 1874, p. 73, § 1.)

**33.** The persons mentioned in the first section of this act shall be designated as corporators; and any such corporators desiring to form a company for the purpose of transacting the business mentioned in the first section of this act, upon either of the plans named in the second section, shall file in the office of the Superintendent of the Insurance Department, a declaration, signed by each of said corporators, setting forth their intention to form a corporation for the purpose of transacting the business aforesaid, which declaration shall comprise a copy of the charter proposed to be adopted by them; and they shall publish a notice of such intention once in each week, or oftener, for at least four weeks, in a newspaper of general circulation, published in the county where such corporation is proposed to be located. (*Ibid*, § 3.)

**34.** When such corporators propose to form a corporation for the purposes designated in the first section of this act, on the joint stock plan, the charter comprised in the declaration mentioned in the third section shall set forth, First, The name assumed by such corporation, and by which it shall be known; Second, The place where the principal office for the transaction of its business shall be located; Third, The specific kind or kinds of business which it proposes to transact; Fourth, The amount of its capital stock and the number of shares into which it shall be divided, and the manner in which it shall be paid up or secured; Fifth, The manner in which the corporate powers granted by this act shall be exercised, showing the number of directors, which shall not be less than nine nor more than thirteen; the manner of electing them; the mode of filling vacancies, and such other particulars as may be necessary to make manifest the objects and purposes of the corporation, and the manner in which it is to be conducted. (*Ibid*, p. 761, § 4.)

**35.** Whenever the corporators shall have filed the declaration required by the third section aforesaid, and also proof of the publication therein required by the affidavits of the publishers of the



newspaper in which the publication was made, his foreman or clerk, with the Superintendent of the Insurance Department, it shall be the duty of said Superintendent to submit such declaration to the Attorney-General of this State for examination; and if it shall be found by him to be in accordance with the provisions of this act and not inconsistent with the constitution and laws of this State and the United States, he shall so certify and deliver it back to the Superintendent, who shall cause the said declaration and affidavit, with the certificate of the Attorney-General, to be recorded in a book kept for that purpose, and shall furnish a certified copy of the same to the corporators; upon the receipt of which they shall be a body politic and corporate, and may proceed to organize in the manner set forth in their charter, and to open books for subscription to the capital stock of the company, and keep the same open until the whole amount specified in the charter is subscribed; but it shall not be lawful for such company to issue policies or transact any business of any kind or nature whatever, except as aforesaid, until they have fully complied with the requirements of the sixth and seventh sections of this act. (*Ibid*, § 5.)

**36.** Upon notification that the capital stock named in the charter has been subscribed, and the amounts required by the fifteenth section of this act to be paid in have been paid in as therein required, the Superintendent shall make an examination, or cause one to be made by some disinterested person, especially appointed by him for that purpose, and if it shall be found by himself, or if the person so appointed shall certify under oath that said capital stock, to the amount therein named, has been paid in and is possessed by the company in money, or in such stocks, bonds, and mortgages, and deeds of trust, as are required by the fifteenth section of this act, then he shall so certify, and the corporators or officers of such company shall be required to certify under oath that the money or stocks, or bonds and mortgages, or deeds of trust exhibited to the persons making the examination are the *bona fide* property of said company. (*Ibid*, § 6.)

**37.** When the corporators have fully complied with the requirements of the preceding section, it shall be the duty of the Superintendent to furnish the company a certified copy of the Treasurer's certificate of deposit and his certificate of authority for them to commence the business proposed in the charter, and a certified copy of the aforesaid declaration and certificates, which, on being filed and recorded in the office of the Recorder of the county in which the company is located, shall be its authority to commence business and issue policies; and such certified copy of the declaration and certificates may be used in evidence for or against such company with the same effect as the originals. (*Ibid*, p. 762, § 7.)

**38.** When such corporators propose to form a corporation for the purpose of doing the fire and marine business designated in the first of the three classes of insurance named in the first section of this act, on the mutual plan, the charter comprised in the declaration mentioned in the third section shall set forth: First, The name assumed by such corporation, and by which it shall be known; Second, The place where the principal office for the transaction of its business shall be located; Third, The specific kind or kinds of business which it proposes to transact; Fourth, The number of persons from whom proposals for insurance shall be received, the amount of premiums to be received on deposit, and the amount of

cash to be paid on the same before the company shall begin to do business and issue policies; Fifth, The manner in which the corporate powers granted by this act are to be exercised, showing the number of directors and trustees, which shall not be less than thirteen nor more than the number stated in its charter, and their respective powers and duties, and the manner of their election, and the mode of filling vacancies, and such other particulars as may be necessary to make manifest the object and purposes of the association, and the manner in which it is to be conducted. (*Ibid*, § 8.)

**39.** Whenever the corporators shall have filed the declaration required by the third section of this act, and also proof of the publication therein required, by the affidavit of the publisher of the newspaper in which the publication was made, his foreman or clerk, with the Superintendent of the Insurance Department, it shall be the duty of said Superintendent to submit such declaration to the Attorney-General of this State for examination; and if it shall be found by him to be in accordance with the provisions of this act, and not inconsistent with the constitution and laws of this State and of the United States, he shall so certify and deliver it back to the Superintendent, who shall cause the said declaration and affidavit, with the certificate of the Attorney-General, to be recorded in a book kept for that purpose, and shall furnish a certified copy of the same to the corporators, upon the receipt of which they shall be a body politic and corporate, and may proceed to organize in the manner set forth in their charter, and to open books and receive proposals and agreements for insurance and premiums for the same, and subscriptions for the guaranty fund mentioned in the sixteenth section of this act, if the company proposes to organize with such fund on deposit, and issue receipts therefor, and to keep such books open until the whole amount specified in its charter is received; but it shall not be lawful for such company to issue policies or transact any business of any kind except as aforesaid, until it has fully complied with the requirements of the tenth and eleventh sections of this act. (*Ibid*, § 9.)

**40.** Upon notification that the proposals and agreements for insurance and subscriptions to the guaranty fund mentioned in the ninth section have been made, and the amount of premiums and subscriptions therein mentioned have been received, the Superintendent shall make an examination, or cause one to be made by some disinterested person specially appointed by him for that purpose; and if it shall be found by himself, or if the person so appointed shall certify under oath that proposals and agreements have been entered into with said company and premiums and securities for the guaranty fund have been received, in the manner and to the amount required by the sixteenth section of this act, and that the premium notes received by the company have been recorded as required by said section, and that the amount required to be paid to said company in cash, is held by it in money or in stocks, and bonds and mortgages, or deeds of trust, then he shall so certify, and the corporators or officers of such company shall be required to certify under oath, that the money or stocks, and bonds and mortgages, or deeds of trust and notes and other obligations exhibited to the person making the examination, have been received on deposit for subscriptions to said fund and for premiums on *bona fide* proposals and agreements for insurance. (*Ibid*, p. 763, § 10.)

**41.** When the corporators have fully complied with the re-

quirements of the preceding sections, and said corporation has deposited with the Treasurer of the State, the amount of stocks or bonds and mortgages, or deeds of trust required by the sixteenth section of this act, if the company has organized with a guaranty fund, it shall be the duty of the Superintendent to furnish the association a certified copy or the certificate of such deposit, if a deposit is required, and his certificate of authority for them to commence the business proposed in the charter, and a certified copy of the aforesaid declaration and certificates, which, on being filed and recorded in the office of the Recorder of the county in which the association is to be located, shall be its authority to commence business, and issue policies; and such certified copies of the declaration, certificate, and certificate of deposit may be used in evidence for or against said company, with the same effect as the originals. (*Ibid*, § 11.)

**42.** Any company incorporated by, or organized under the provisions of this act may amend its charter in any manner which shall not conflict with the provisions of this act. Any such company desiring to amend its charter, shall call a meeting of all persons entitled to vote at the election of its directors, by a notice, which shall state the object of such meeting, and shall be published once a week or oftener, for at least four weeks in a newspaper of general circulation, published in the county where said company shall have its principal office. If a two-thirds majority of all the votes cast at such meeting shall be in favor of such amendment, such company shall file with the Superintendent of the Insurance Department proof of said publication, by the affidavit of the publisher of the newspaper in which such publication was made, his foreman or clerk, and also a copy of the proposed amended charter, which the said Superintendent shall submit to the Attorney-General for examination, and if found by him to be in accordance with the provisions of this act, and not inconsistent with the constitution and laws of this State, he shall so certify, and shall deliver it back to the Superintendent, who shall cause the same, together with the affidavits of the publisher, and the certificate of the Attorney-General, to be placed on record in his office, and shall furnish a certified copy of such record, and also his certificate of authority to transact business under said amended charter, to said company, and upon filing of the same in the office of the Recorder of the county where it shall have its principal office, such amended charter shall be the charter of said company. (*Ibid*, p. 764, § 12.)

**43.** Any company incorporated by, or organized under the laws of this State, and doing either of the kinds of business mentioned in the first section of this act, or any part of the same, may surrender its charter or license, and reorganize under the provisions of this act. Any company or association desiring so to reorganize, shall call a meeting of all persons, whether stockholders or policyholders, entitled to vote at the election of its directors, by a notice which shall state the object of said meeting. Said notice shall be published once in each week or oftener, for at least four weeks, in a newspaper of general circulation published in the county where such company shall have its principal office. At such meeting a declaration shall be submitted, in writing, setting forth the intention of said company or association to surrender its present charter and license, and reorganize as aforesaid, and such declaration shall comprise a copy of the charter proposed to be adopted by said com-

pany, which charter shall set forth the particulars required by the fourth and eighth sections of this act, according to the plan upon which said company shall propose to reorganize. (*Ibid*, § 13.)

44. The declaration mentioned in the preceding section shall be signed by a majority of the directors of such company or association; and the president and vice-president, or secretary of such company or association shall make affidavit that such declaration was voted upon and adopted at a meeting of the legal voters of such company or association, and that such meeting was called in the manner prescribed by the thirteenth section of this act. Whenever the company shall have filed such affidavit and declaration with said Superintendent, it shall be his duty to submit the same to the Attorney-General for his examination, and if it shall be found by him to be in accordance with the provisions of this act, and not contrary to the constitution and laws of this State and of the United States, he shall so certify, and return the same to the Superintendent, who shall thereupon make, or cause, an examination of the stock, and assets, and proposals, and agreements in the possession of the company, and the investments of the same to be made, and certified to in the manner provided for like examinations in the sixth and tenth sections of this act, and shall also require the acting president and secretary of said company to certify, under oath, that the property exhibited to the persons making the examination is a *bona fide* property of said company. When the company has fully complied with the preceding requirements of this section, and has deposited with the State Treasurer the securities required by the sixteenth section of this act, if the company proposes to reorganize with a guaranty fund, it shall be his duty to furnish the company a certified copy of the Treasurer's certificate of such deposit and his certificate of authority for it to do business under its new organization and charter, and also a certified copy of the aforesaid declaration and certificates, which, on being filed and recorded in the office of the Recorder of the county in which the company is located, shall complete its new organization, and be its authority for doing business under its new organization and charter. Such certified copies of the declaration and certificates may be used in evidence for or against said company, with the same effect as the originals; *Provided*, that no existing mutual company shall have power to reorganize as a stock company. (*Ibid*, p. 765, § 14.)

45. No company formed on the joint-stock plan, for the purpose of doing either of the kinds or classes of business mentioned in the first section of this act, shall commence to do business with a capital less than one hundred thousand dollars; and before such a company shall proceed to do business, the capital of such company shall be wholly paid in, and be held in cash or invested in treasury notes and stocks of the United States, or in stocks and bonds of the State of Missouri, or in bonds and mortgages or deeds on trust on improved unincumbered real estate, worth at least double the amount loaned thereon; the valuation of the real estate so mortgaged, to be made by the duly authorized assessors of the county in which the real estate is located. (*Ibid*, § 15, as amended by laws of 1874, p. 73, § 2.)

46. No company formed upon the mutual plan for the purpose of doing the fire and marine business, designated in the first of the three classes of insurance, named in the first section of this act, shall commence to do business until agreements have been entered into



for insurance, with at least two hundred applicants, the premiums on which shall amount to not less than fifty thousand dollars, of which forty per cent. at least, unless the company is to be organized with a guaranty fund upon each and every premium, shall have been paid in cash, and until notes of solvent parties founded on actual and *bona fide* applications for insurance shall have been received for the remainder. No one of the notes received as aforesaid shall amount to more than five hundred dollars, and no two shall be given for the same risk, or be made by the same person or firm, except where the whole amount of such notes shall not exceed five hundred dollars; nor shall any note be regarded or represented as forming part of the premiums required, unless a policy be issued upon the same within thirty days after said company shall have received its certificate of authority from the Superintendent, to do business and issue policies upon a risk which shall not be for a shorter period than six years. Each of said notes shall be payable, in part or in whole, at any time when the directors of said company shall deem the same requisite for the payment of losses, and such incidental expenses as may be necessary for transacting the business of said company. No note shall be accepted as a part of such capital stock, unless the same shall be endorsed by two solvent securities, residents of this State, and shall be accompanied by certificate of a justice of the peace of the town or city where the person making such note shall reside, that the person making said note is, in his opinion, pecuniarily good and responsible for the same; and by a certificate of a justice of the peace as aforesaid, that said endorsers are pecuniarily good and responsible; and unless such note shall state upon its face, that it is a lien upon the property insured. Said note shall, before such company proceeds to do business, be filed and recorded in the Recorder's office of the county where such property is situated, and shall thereupon be and become a lien on such property; and such note shall not be surrendered, or any part of the cash paid upon the premium returned, while the policy for which it was given continues in force. Every mutual company shall have power to organize with a guaranty fund, which shall not be less than fifty thousand dollars, and which shall, before the company begins to do business, be deposited with the Treasurer of this State, in securities of the kinds mentioned in the fifteenth section of this act, which shall be held as security for the payment of all losses and other liabilities of such companies. The applicants for insurance in such company organized with a guaranty fund, shall pay in ten per cent. in cash, upon the premiums agreed for at the time of the organization of such company. Such fund shall be contributed by not less than ten persons, who have entered into agreements as above for insurance; and no one person shall contribute, or hold or receive dividends, interest or commissions, upon more than twenty per cent. of said fund. The above fund shall, before the company proceeds to do business, be deposited with the State Treasurer. The company shall have power to allow to each of the contributors to such fund, all the interest and dividends accruing from the amount contributed or held by him, and also a commission not to exceed five per cent. per annum upon the same. Said guaranty fund, or any part of the same, shall not be withdrawn from the company until the premium notes held by such company shall have amounted to two hundred and fifty thousand dollars. Whenever the premium notes held by such company shall have reached the

above amount, the president and secretary, or directors of the company, may file a certificate, under oath, with the Superintendent of the Insurance Department, stating that the company holds premium notes to the amount aforesaid, and publish a copy of the same, once a week or oftener, for at least four weeks, in some newspaper having general circulation, and published in the county where such company has its principal office. When the company shall have filed such certificate, and also proof of such publication, by affidavit of the publishers of the newspapers in which such publication shall have been made, his foreman or clerk, with the Superintendent, he shall make, or cause an examination to be made, and if he shall find that the company has the above amount of premium notes, and is in a sound and solvent condition, he shall give such company a certificate discharging said fund from all its obligations and liabilities; upon which, said fund shall be surrendered to the parties depositing or entitled to receive the same. (*Ibid*, p. 766, § 16.)

47. Every person who shall insure in such mutual company, shall, before he receives his policy, deposit with the company a note for such sum or sums of money as may be agreed upon for the premium; a part, not less than ten per cent. of which shall be immediately paid in cash, before the company shall be liable for any loss, and the remainder of said note shall be made payable at any time, and in part or the whole, as the directors of said company may demand, upon an assessment to be made by them whenever they shall deem the same necessary, for the payment of losses, expenses, and other liabilities of said company; said note, or such part thereof as shall remain unpaid at the expiration or termination of the policy, shall be given up to the maker of the same, provided all assessments upon such note, and all liabilities of said maker to the company, shall have been paid. All buildings and other property, real and personal, insured by and with such company, together with all right, title and interest of the insured to the lands on which such buildings are situated, shall be pledged to such company, and the company shall have a lien thereon until the aforesaid note is fully paid; *Provided*, That the maker of said note shall assent to such lien in writing upon the face of the same, and the note shall be recorded in the office of the Recorder of the county where such property is situated. (*Ibid*, p. 767, § 17.)

48. The board of directors of every mutual insurance company organized under the provisions of this act, shall have the power, as often as they shall deem it necessary in order to settle the losses insured against, and the expenses and other liabilities of the company, to make an assessment upon the premium notes given by persons effecting insurance in the company. Such assessment shall be made upon each and every note held by the company at the time of the assessment, and which has been in existence for one year prior to the date of the assessment, and shall be for a sum upon each note which bears the same ratio to the whole amount to be raised by the assessment, that the full sum for which such note was given, bears to the full amount for which all the notes assessed were given. The amount so assessed upon each note shall be due and payable within thirty days after the publication of a notice of such assessment, and after written notice of the same to the maker of such note has been deposited in the post-office, or delivered to him in person. The publication of the above notice shall be made in some newspaper of general circulation, published in the county where

said company shall have its principal office, and shall set forth the full amount for which all the premium notes held by the company were given, the amount of losses adjusted and unpaid, the amount of losses claimed but unadjusted, giving the names of claimants, the amount of expenses accrued and unpaid, and the amount of cash on hand. If any person shall neglect or refuse to pay the sum so assessed upon him, for thirty days after the publication and deposit or delivery of said notices, the directors of said company may sue for and recover the whole amount of his premium note held by the company, with costs of suit. No person shall, in any case, be liable upon any premium note on account of any and all claims and assessments upon the same for an amount greater than the face of such note. (*Ibid*, p. 768, § 18.)

**49.** No mutual association, organized under this act with a guaranty fund, shall commence business until such association has deposited with the Treasurer of this State, the sum of fifty thousand dollars, in notes or stocks, or bonds and mortgages, or deeds of trust, of the description mentioned in the fifteenth section of this act; such stocks, in all cases, to be, or to be made to be, equal to stock producing six per cent. per annum, and not to be received at a rate above their par value, or above their correct market value. (*Ibid*, § 19.)

**50.** The Treasurer of this State shall receive the deposits and securities required by the provisions of this act to be deposited with him, and shall give vouchers for the same to the parties so depositing, and shall furnish a certificate of such deposits to the Superintendent of the Insurance Department. Said Treasurer shall be responsible upon his official bond for all stocks, bonds, notes, and other securities deposited with him. He shall deposit such securities in the bank or banks where the State funds are deposited, and shall hold them as securities for policy-holders in the companies to which they respectively belong; but as long as any company so depositing shall continue solvent, he shall permit such company to collect the interest or dividends on its securities, so deposited, and from time to time to withdraw any such securities on depositing other securities in the stead of those to be withdrawn, such securities to be of the same value and of the kinds mentioned in the fifteenth section of this act; but such securities, or any part of the same, shall not be withdrawn from the custody of said Treasurer unless upon the written order of the acting president and secretary, or of the directors, of the company making the deposit, which order shall be endorsed by the Superintendent of the Insurance Department, or upon the order, or by the authority of some court of competent jurisdiction. (*Ibid*, p. 769, § 20.)

**51.** The corporators or directors of any company organized under this act shall have power to adopt a seal, and to make such by-laws not inconsistent with this act or the constitution and laws of the State, as they may deem necessary for the regulation and management of its affairs. (*Ibid*, § 21.)

**52.** Every company and association organized under this act, shall have two chief officers, one of whom shall be known as the president, and the other as the secretary, and all contracts made by the company shall be signed by both of said officers. Every such company may also have one or more vice-presidents, and an assistant secretary, who in the absence of the president or secretary, as

the case may be, shall have all the powers and perform all the duties of the president and secretary. (*Ibid*, § 22.)

**53.** It shall be the duty of the president or vice-president and secretary, or a majority of the directors, of every insurance company organized under this act or the laws of this State, annually, on the first day of January, or within thirty days thereafter, to prepare under oath, and deposit in the office of the Superintendent of the Insurance Department, a statement made up for the last fiscal year of said company, showing: First, The amount of capital stock of the company, if it be a joint stock company, or if it be a mutual company, the amount of the face of the premium notes held by it, and the amount thereof remaining unpaid, specifying the amount recorded as liens on property, and the amount of guaranty fund, if the company have such fund: Second, The property or assets held by the company specifying, 1st, the value, as near as may be, of the real estate held by such company; 2d, the amount of cash on hand or deposited in banks to the credit of the company, specifying in what banks the same are deposited; 3d, the amount of cash in the hands of agents, and in the course of transmission; 4th, the amount of loans secured by bonds and mortgages, or by deeds of trust; 5th, the amount of notes and bills receivable, matured and remaining unpaid; 6th, the amount of notes and bills receivable maturing; 7th, the amount of other securities held by the company, specifying what they are and as nearly as may be, their cash value; 8th, the amount of debts considered bad or doubtful: Third, The liabilities of the company, as follows: 1st, the amount due, or to become due to banks or other creditors; 2d, losses adjusted and due; 3d, losses adjusted and not due; 4th, losses unadjusted and in suspense, and awaiting further proofs; 5th, premium reserved or amount required to safely reinsure all outstanding risks, to be estimated by taking fifty per cent. of the gross premiums on all unexpired fire risks that have less than one year to run, and a pro rata of all gross premiums on risks that have more than one year to run, with fifty per cent. of the gross premiums on all unexpired inland navigation risks, and the whole amount of the gross premiums on all unexpired marine risks; 6th, all other claims against the company: Fourth, The greatest amount insured in any one risk: Fifth, The number of agents employed in this State or other States: Sixth, The amount of outstanding risks and gross premiums received and receivable thereon at the date of each statement: Seventh, The amount of receipts from all sources, and amount of expenditures for all purposes, including dividends, for the last fiscal year preceding the date of the statement. (*Ibid*, § 23, as amended by laws of 1874, p. 73, § 3.)

**54.** It shall not be lawful for any person to act, within this State, as agent or otherwise, in receiving or procuring applications for insurance, or in any manner to aid in transacting the business referred to in the first section of this act, for any company or association incorporated by or organized under the laws of the United States, or any other State of the United States, or any foreign government, unless such company is possessed of the amount of capital and of actual paid-up capital, or of premium notes, cash premiums and guaranty fund, of the kind, character and amounts required of companies organized under the provisions of this act. Such guaranty fund shall be deposited with the financial officer of the State or county under the laws of which the company is organized, or with the Treasurer of this State, in the manner provided by



the sixteenth section of this act, in regard to the making of such deposit by companies organized under this act. (*Ibid*, p. 770, § 24.)

**55.** Any such company mentioned in the preceding section desiring to transact any such business as aforesaid by any agent or agents in this State, shall file with the Superintendent of the Insurance Department a written instrument or power of attorney duly signed and sealed, authorizing some person who shall be a citizen of this State, to acknowledge or receive service of process for and in behalf of such company in this State, and consenting that service of process upon such agent or attorney shall be taken and held to be as valid as if served upon the company, according to the laws of this or any other State, whether such process is issued by any of the courts of this State, or any of the courts of the United States, having jurisdiction within this State; and such instrument shall furthermore provide that such attorney's authority shall continue until revocation of his appointment is made by such company, by filing a similar instrument with said Superintendent, whereby another person shall be appointed as such attorney. Such company shall have the right from time to time to change every appointment thus made by it; but until a new instrument is filed with said Superintendent by such company, making such change, the attorney last appointed shall continue in authority, and remain the designated attorney of such company for the purpose of this act. If any attorney so appointed, shall have become disqualified from any cause whatever, or shall die, the company shall immediately fill the vacancy in the manner required for an original appointment of such attorney. Every such company doing business in this State, shall maintain such attorney within the State, in the manner herein described, after it shall have ceased to do any new business, so long as it shall have any policies or liabilities outstanding in the State; and if any such company shall have forfeited its right to do business in this State, or shall have voluntarily withdrawn therefrom, and the attorney last appointed shall die, or become disqualified; and the company shall fail within a reasonable time to fill the vacancy, then the said Superintendent shall have authority, and it is hereby made his duty, to make such appointment for such company, of which notice in writing shall immediately be given by him to the appointee, and also to the company, and such notice to the appointee shall be evidence of such appointment. Every such instrument of appointment executed by such company, shall recite the whole of this section, and shall be accompanied by a copy of a resolution of the board of directors or trustees of such company, showing that the president and secretary, or other chief officers of such company, are authorized to execute such instrument in behalf of the company; and if any such company shall fail to appoint and maintain, within the State, an attorney or agent, in the manner hereinbefore described, it shall forfeit the right to do or continue business in this State. (*Ibid*, § 25, as amended by laws of 1874, p. 74, § 4.)

**56.** Any such company mentioned in the twenty-fourth section of this act, desiring to transact any such business as aforesaid, by any agent or agents in this State, shall file in the office of the Superintendent of the Insurance Department, a certified copy of its charter or act of incorporation, together with a statement, under the oath of the president and secretary of such company, showing the condition of the affairs of said company on the first day of January next preceding the date of such oath. The statement shall be

in the same form, and shall set forth the same particulars, as the annual statements required of companies organized under this act, or under the laws of this State, by the twenty-third section of this act. Such company shall also file a copy of its last annual report, made in compliance with any law of the State or county by which said company was incorporated, if any such report shall have been made. (*Ibid*, p. 771, § 26.)

**57.** Any such company mentioned in the twenty-fourth section of this act shall procure from the Superintendent a certificate stating that the foregoing requirements have been complied with, and authorizing it to do business, a copy of which, certified by the Superintendent, and issued only upon the request of the president or secretary, or other chief officer of the company, or of a general agent of such company for this State, notice of whose appointment has been filed in the Insurance Department, shall be held by every agent or solicitor for said company within this State, and such copy shall, in some convenient and distinct manner, set forth the name of the person, agent, or solicitor for whose use it is issued. Every such company shall be required to procure annually, for the use of its agents and solicitors, certified copies of the renewed certificate of authority hereafter provided for, to wit: in section thirty of this act. (*Ibid*, § 27, as amended by laws of 1874, p. 75, § 5.)

**58.** Any such company incorporated by, or organized under the laws of the United States or any other State of the United States, and doing business in this State, shall annually, on the first day of January, or within thirty days thereafter, file with the Superintendent of the Insurance Department of this State, a statement of its affairs, in the same manner and form as provided in the twenty-third section of this act for similar companies organized under the laws of the State. (*Ibid*, § 28.)

**59.** Any such company incorporated by, or organized under, the laws of any foreign government, and doing business in this State, shall annually on the first day of June, or within thirty days thereafter, file with the Superintendent of the Insurance Department, a statement of its affairs in the same manner and form as provided in the twenty-third section of this act, for the annual statement of similar companies organized in this State. Said statement shall be made up for the year ending on the preceding thirty-first day of December. If any such company shall transact, either in the country where it is located, or in any other country, any other business than that of fire insurance, the said statement shall exhibit what amount is to be deducted from its gross assets as a reserve for its life risks, in the same manner as is required by section twenty-eight of an act for the incorporation and regulation of life assurance companies, approved March 4th, 1869; and also such statement shall exhibit what amount is required to reinsure its marine, cargo, or inland risks, if such business is transacted by it, and truthfully exhibit what amount is set aside, held and invested in the United States, applicable to the payment of fire losses therein. Any such company mentioned above, and doing business in this State, shall, in addition to the above-mentioned statement, annually, on the first day of January, or within thirty days thereafter, file with the Superintendent of the Insurance Department, a supplementary statement, duly certified under oath, giving: First, A detailed description of the investments of such company in the United States; Second, The amount of premiums re-

ceived, and claims and taxes paid in this State and in the United States, for the year ending on the thirty-first (31) day of the preceding December, and such other information as may be required by said Superintendent. All statements required by this section to be made to the Superintendent of the Insurance Department by companies of foreign countries or governments, shall be made in the figures of the currency of the United States. (*Ibid*, § 29, as amended by laws of 1874, p. 75, § 6.)

**60.** If the annual statements mentioned in the twenty-third (23), the twenty-eighth (28), and twenty-ninth (29) sections of this act shall be satisfactory evidence to the Superintendent of the solvency of such company filing the same, and of its ability to meet all its engagements at maturity, and that the capital stock and premium notes of the company making the same remains unimpaired to an extent not exceeding twenty per cent. thereof, he shall issue a renewed certificate of authority to such company to continue business, a certified copy of which, shall be its authority to continue business, and to issue policies in this State for the ensuing year. (*Ibid*, p. 772, § 30, as amended by laws of 1874, p. 76, § 7.)

**61.** Every company doing the business mentioned in the first section of this act, or any part thereof, in this State, shall pay to the Superintendent of the Insurance Department the following fees, which shall go to the support of said department:

For filing the declaration required by this act, on the organization of companies or associations.....	\$50 00
For filing statement and certified copy of charter, required of companies not organized under the laws of this State.....	50 00
For filing annual statement.....	50 00
For filing supplementary annual statement.....	25 00
For filing any other paper required by law to be filed in the office of said Superintendent.....	10 00
For furnishing copies of records and other documents, per folio.....	20
For affixing seal of office.....	1 00

(*Ibid*, § 31.)

**62.** It shall be the duty of the Superintendent of the Insurance Department, whenever he shall have good reason to suspect that the affairs of any insurance company incorporated under the laws of this State, or doing in this State the business mentioned in the first section of this act, are in an unsound condition, to require of said company a special statement of its affairs; and if said Superintendent shall not be satisfied that the affairs of said company are in a safe condition, or if any three stockholders or policy-holders of such company shall make affidavit that they believe such special statement, or any annual statement, to be incorrect or untrue, setting forth in what respects, and on what grounds they believe the same to be untrue, then the said Superintendent shall have power to make a personal examination of the affairs of said company, or cause one to be made by some disinterested person or persons specially appointed by him for that purpose; and the said Superintendent, or person or persons so appointed by him, shall have power to examine, under oath, the officers or agents of any company, in relation to the business of said company, and it shall be the duty of the officers and agents of any insurance company doing business in this State, to cause their books to be opened

for the inspection of said Superintendent, or of any person or persons appointed by him to make such examination, and otherwise to facilitate such examination as far as it may be in their power so to do, and whenever said Superintendent shall deem it for the benefit of the public, he shall publish the result of said investigation in some newspaper published in the city of St. Louis; and whenever it shall appear to said Superintendent, from an examination made by himself, or from the report of the person or persons so appointed by him, that the affairs of any such company, not incorporated by the laws of this State, and doing in this State any business mentioned in the first section of this act, are in an unsound condition, he shall revoke the certificate of authority granted to such company, and shall cause a notice of such revocation to be published once a week, or oftener, for at least four weeks, in some newspaper, in the city of St. Louis; and the agent or agents of such company are, after such revocation and notice, required to discontinue the issuing of new policies or the collection of any premiums; and if upon any such examination it shall appear to said Superintendent that the capital stock of any company, created by or organized under any law of this State, and doing any business mentioned in the first section of this act, is impaired more than twenty per cent., or if it be a mutual company, that its guaranty fund is impaired, or that its premium notes are below the amount required, or of a different kind and character, he shall give notice to such company, in writing, to make up the same within sixty days; and if, upon such notice, such company shall neglect or refuse to make up said stock and notes as required, or if, upon such examination, it shall appear to said Superintendent that any such company is insolvent, or that its condition is such as to render its further proceedings hazardous to the public, or to those holding its policies, he shall file in the Clerk's office of the Circuit Court of the county in which said company was organized, or in which it has its principal office or place of business, a petition, setting forth the condition of said company as aforesaid, and praying for a writ of injunction to restrain said company, in whole or in part, from further proceeding with its business. Such writ shall thereupon issue, together with a summons, against said company, returnable in three days thereafter, which shall be served as provided by law for service of process upon corporations. If such process be not served, then further like process shall issue, returnable as the court, or a judge thereof, in vacation, may direct; and the court, or judge, whenever satisfied that process cannot be served, may order said company to be notified by publication, as in case of non-resident defendants. Upon the return of such process, duly served, or proof of such publication, made by the affidavit of the publisher of the newspaper making such publication, his foreman or clerk, the petition shall be heard summarily before said court, or the judge thereof, who may, at such hearing, or at any time thereafter, for cause shown, dissolve, modify or continue the injunction, and he shall set a day for the hearing of such cause without unnecessary delay. Said company shall, unless longer time be granted, answer the allegations of said petition, on or before the third day after the time when it is bound to appear, failing in which, judgment may be entered against it by default. All proceedings had and orders or decrees made, under the provisions of this section, before or by a judge in vacation, shall be entered of record, as of a special term of the court of which he is judge. One or more



referees, versed in the business of insurance mentioned in the first section of this act, may be appointed by the court or judge, to report upon the condition of said company, or upon any question of fact arising in the cause. The court, or judge, may, at any time after the filing (of the petition) appoint agents or receivers, to take possession of the property of said company, and may, upon the final hearing, make such orders and decrees as may be needful to suspend, restrain or prohibit the further continuance of the business of said company, or any part thereof, or for the dissolution of the said company and the winding up of its affairs. From a final judgment or decree in any such case, an appeal or writ of error may be taken, as provided by law in respect to final judgments of the court rendering the same; or, if in the county of St. Louis, as from a final judgment or decree of the circuit court at a special term. The court, or judge, may appoint an attorney to assist said Superintendent in any such proceeding. The costs and reasonable expenses of any examination or proceeding authorized by this section, including reasonable attorney's fees, to be allowed and taxed as costs by the court or judge appointing such attorney as aforesaid, shall be paid by the company so examined or proceeded against, and such expenses, other than taxed costs, may be recovered by said Superintendent, in an action therefor, against such company; *Provided*, That if any injunction issued thereunder be dissolved, and the court or judge dissolving the same shall not state in the order or decree of dissolution that there was reasonable grounds for procuring such injunction, the costs of such proceeding shall be taxed to, and paid by, the Superintendent of the Insurance Department, and shall be allowed him in his accounts, upon proper vouchers therefor, as expenses of said Department. (*Ibid*, § 32.)

**63.** The Superintendent of the Insurance Department shall cause to be prepared, and furnish to every company to which this act shall apply, such printed forms of the statements herein required, as shall seem to him best adapted to elicit from said companies a true exhibit of their condition in respect to the several points hereinbefore enumerated. (*Ibid*, p. 775, § 33.)

**64.** Any company or association organized under the provisions of this act, may cause itself to be wholly or partially reinsured against any loss arising from any risk which it may have undertaken, and in like manner may reinsure or guarantee any other corporation doing the same kind of business as itself, against loss arising from any risks that shall have been or may be undertaken by such corporation, or may join with any such corporation in any such risk, and may make and enter into all manner of contracts relating to such reinsurances and joint insurance, and the terms upon which the same shall be conducted. (*Ibid*, § 34.)

**65.** Any person legally entitled to vote at any election, on any question relating to the management or business of any company organized under this act, may cast such vote by proxy; but said proxy shall be a legal voter of such company; and the authority to cast such vote shall be in writing and not in printing, and shall state the name of the person authorized to cast such vote, and the date of the meeting at which such vote shall be given, and the object for which, and the manner, whether for or against the object stated, and if for directors, the names of the persons for whom the vote shall be cast; and no such authority given to any proxy shall be valid unless the same shall have been given within thirty days

prior to the meeting at which the vote is to be cast. No proxy shall cast more than one hundred votes. (*Ibid*, § 35.)

**66.** No company organized under the provisions of this act, shall undertake any business or risks except as herein provided; and no company organized or incorporated by or under the laws of this State, or any other State of the United States, or of any foreign government, transacting the business of life assurance in this State, shall be permitted or allowed to take any risk connected with the business of insurance mentioned in the first section of this act; nor shall any such company, doing the business mentioned in one of the three classes or divisions named in the first section, issue policies, or do any business connected with the kind of insurance mentioned in either of the other classes; *Provided*, That no company now doing business in this State, and complying with the provisions of this act, shall be prevented from continuing the same. (*Ibid*, § 36.)

**67.** Suits at law may be maintained by any corporation formed under this act against any of its members or stockholders, for any cause relating to the business of such company. Suits at law may also be prosecuted and maintained by any member or stockholder of such corporation, against the corporation, for losses which have accrued on any risks, if payment is withheld for more than two months after such loss shall have become due. (*Ibid*, § 37.)

**68.** No company formed under this act, shall directly or indirectly deal or trade in any goods, wares, merchandise, or other commodities whatever, except as provided in the first section of this act. (*Ibid*, p. 776, § 38.)

**69.** No company formed under this act, shall be permitted to purchase, hold or convey real estate, excepting for the purposes and in the manner herein set forth, to wit: First, Such as shall be requisite for its accommodation in the transaction of its business; or Second, Such as shall have been mortgaged in good faith by way of security, for loans previously contracted, or for moneys due; or Third, Such as shall have been conveyed to it, in satisfaction of debts, previously contracted in the course of its dealings; or Fourth, Such as shall have been purchased at sales upon the judgments, decrees, or mortgages, obtained or made for such debts, and it shall not be lawful for any company incorporated as aforesaid to purchase, hold or convey real estate, in any other case or for any other purpose: and all such real estate as may be acquired as aforesaid, and which shall not be necessary for the accommodation of such company in the convenient transaction of its business, shall be sold and disposed of within five years after such company shall have acquired title to the same, and it shall not be lawful for such company to hold such real estate for a longer period than that above mentioned, unless the said company shall procure a certificate from the Superintendent of the Insurance Department, that the interests of the company will suffer materially by a forced sale of such real estate, in which event, the time for the sale may be extended to such time as the Superintendent of the Insurance Department shall direct in said certificate. (*Ibid*, § 39.)

**70.** Every existing company incorporated under the laws of this State, for the purpose of transacting the business mentioned in the first section of this act, or any part of the same, shall be subject to all the provisions and requirements of this act, provided that

nothing herein shall be construed to affect vested rights, held under any special charter. (*Ibid*, § 40.)

**71.** Whenever the laws of any other State of the United States or of any foreign country, shall require of, or impose upon companies not organized under the laws of such State or country, any further or greater licenses, fees, taxes, deposits of securities, statements, or certificates of authority, or require any other duties or acts, or inflict any greater fines or penalties, than are by the laws of Missouri imposed or inflicted upon or required of companies not organized under the laws of this State, then it shall be the duty of the Superintendent of the Insurance Department of this State, to require from every company of such State transacting or seeking to transact the business mentioned in this act in this State, the payment of all licenses, fees, taxes, fines, or penalties, and the making of all deposits of securities and statements, and the doing of all acts, which by the laws of the State or country in which such company was organized, are in excess of the licenses, fees, taxes, deposits, statements, fines, penalties, acts, or duties, required by the laws of this State of companies of other States. (*Ibid*, § 41, as amended by laws of 1874, p. 76, § 8.)

**72.** Every person or persons in this State, who shall receipt for any money on account of or for, any contract of insurance, made by him or them, for any insurance company or association, not authorized to do business in this State, or who shall receive or receipt for any money from other persons to be transmitted to any such insurance company or association, either in or out of this State, for a policy or policies of insurance issued by such company or association, or for any renewal thereof, although the same may not be required by him or them as agents, or who shall make, or cause to be made, directly or indirectly, any contract of insurance for such company or association, shall be deemed to all intents and purposes, an agent or agents of such company or association, and shall be subject to all the provisions and regulations, and liable to all the penalties provided and fixed by this act; *Provided, however*, That nothing in this section shall be so construed as to prevent any authorized agent of such company or association, which agent or company or association has complied with the requirements of this act, from employing insurance solicitors, and the requisite aid to conduct the business of his agency; *and Provided also*, That this section shall not be construed so as to prevent any person from procuring insurance on his own property, nor any insurance company or agency doing business in this State from procuring a reinsurance when deemed necessary by them outside of this State. (*Ibid*, p. 777, § 42.)

**73.** Every violation of this act shall subject the party violating to a penalty of five hundred dollars for each violation, which shall be sued for and recovered in the name of the State of Missouri by the Attorney-General of the State, or Circuit Attorney of the circuit in which the company or agent or agents so violating shall be situated; and one-half of such penalty when recovered, shall be paid into the treasury of the State, and the other half to the informer of such violation; and in case of non-payment of such penalty, the party so offending shall be liable to imprisonment for a period not exceeding six months, in the discretion of any court having cognizance thereof. (*Ibid*, § 43.)

**74.** All companies doing business in this State under either of

the classes or divisions of insurance business named in the first section of this act, or any part thereof, shall pay into the Insurance Department of this State, all the fees and dues as required by the provisions of this act, which shall be in lieu of all fees, dues or taxes to be collected for the benefit of the State under existing laws, but such companies shall, in all other respects, be subject to all existing laws relating to fees, licenses and taxation for county or municipal purposes. (*Ibid*, § 44.)

**75.** Any agent or agents of any insurance company who shall neglect or refuse to comply with the requirements of the last preceding section, shall forfeit and pay the sum or two hundred dollars, which may be sued for and recovered in the name of the State, to the use of the county school fund, by suit instituted by the Circuit Attorney of the circuit in which such county is situated, or by indictment in any court having competent jurisdiction. (*Ibid*, p. 778, § 45.)

**76.** All such provisions of chapters sixty-seven (67) and ninety (90) of the General Statutes of the State of Missouri, as relate to the business mentioned in the first section of this act, and to companies transacting such business, and all other acts and parts of acts inconsistent with the provisions of this act, are hereby repealed; *Provide*d, That nothing in this act contained shall be construed to affect the corporate existence, or the rights as such, of any corporation now existing, heretofore organized under any general law of this State. (*Ibid*, § 48.)

**77.** Every company organized by, or incorporated under, the laws of this State, shall, within ninety days after the passage of this act, file with the Superintendent of the Insurance Department of this State, a statement made up for its last fiscal year, or for one year prior to any subsequent date; such statement shall be made in the same manner and form, and shall set forth the same facts as is required by the twenty-third section of this act, of companies making their annual statements. (*Ibid*, § 47.)

**78.** Nothing in this act contained shall be so construed as to prevent the repeal or amendment of the same or any section thereof, by the present or any future General Assembly of this State. (*Ibid*, § 48.)

## COUNTY MUTUAL FIRE INSURANCE COMPANIES.

**79.** Any association of fifty or more persons, citizens of any county, desirous of becoming incorporated under the provisions of this act, shall present to the circuit court of their county, a copy of their constitution or articles of association and a list of all their members, together with a petition to such court, for a certificate of incorporation under this act, and specifying the name they desire for their association. (*Laws of 1874, p. 90, § 1.*)

**80.** If the circuit court shall be of the opinion that said articles of association be not inconsistent with the constitution or laws of the United States or of this State, then the same shall be filed with the clerk of said court, and the said court shall grant to said association a certificate in the following form, to wit: "Whereas, A., B., C., D., E., F., and others, have filed in the office of the Clerk of the Circuit Court, their articles of association, in compliance with the provisions of 'An Act Providing for the Incorporation and Management of Local Insurance Companies,' with their petition for incorpor-



ation, under the name and style of ———; They are, therefore, hereby declared a body politic and corporate, by the name and style aforesaid, with all the powers, privileges and immunities granted in the act above named.

By order of the circuit court, (or judge thereof.)

[Seal.]

G. H.,

Attest:

Clerk of the Circuit Court of ——— County."

(*Ibid*, § 2.)

**81.** All associations incorporated under the provisions of this act, shall file a copy of all amendments to their articles of association certified as such, under their seal, with the Clerk of the Circuit Court, within sixty days after their passage. (*Ibid*, § 3.)

**82.** The petitioners for such incorporation and all other persons residing in the county, or owning property therein, who may thereafter become members of said company in the manner herein prescribed, shall have the power of insuring their respective dwelling houses, stores, shops, and their buildings, household furniture and merchandise, situated and being in said county, against loss or damage, whether the same shall happen by accident, lightning, or any other means excepting that of design in the assured, or by the invasion of an enemy, or insurrection of the citizens of this or any of the United States; and by the name of their corporation may sue and be sued, plead and be impleaded, appear, prosecute and defend, in any court of record or other place whatsoever; may have and use a common seal; may purchase and hold such real and personal estate as may be necessary to effect the object of their association, and the same may sell and convey at pleasure; *Provided*, Such real etate shall not exceed one hundred and sixty acres; may make establish and put into execution such by-laws, ordinances and resolutions, not being contrary to the laws of this State or of the United States, as may seem necessary or convenient for their regulation and government, and for the arrangement of their affairs; and do and execute all such acts and things as may be necessary to carry into full effect the purposes intended by this act of incorporation. (*Ibid*, § 4.)

**83.** That all and every person residing in said county, or owning property therein, who shall at any time become interested in said company by insuring therein, and also their respective heirs, executors, administrators and assigns, continuing to be insured therein, as hereafter provided, shall be deemed and taken as members thereof, for and during the term specified in their respective policies, and no longer; and shall at all times be concluded and bound by the provisions of this act. (*Ibid*, p. 91, § 5.)

**84.** There shall be a meeting of said company in the county on the first Wednesday of April, annually, or on such other day as the said company may by their constitution or articles of association determine; at which first annual meeting shall be chosen, by a majority of the votes of the members present and by proxy, a board of directors consisting of not more than fifteen nor less than nine members, who shall continue in office until others have been chosen and accepted the trust in their stead. In all vacancies happening in said board, whether by removing from the county, dying or refusing or neglecting to act, for and during the space of three months successively, then and in every such case another director shall be chosen in the place of each director so removing, dying or refusing or neglecting to act, as aforesaid, by a majority of the directors present at any monthly meeting; which directors so chosen,

shall remain in office until the next general election of directors; and a majority of the whole board shall constitute a quorum for the transaction of business. At their first regular meeting the board of directors shall class themselves by lots, into three classes of an equal number each, the terms of whose services shall respectively expire as follows: The first class in one year, the second class in two years, and the third class in three years. Special meetings of the company may be called by order of the directors, or whenever the owners of one part of the property insured in such company shall apply to the directors, setting forth in writing the purposes for which a meeting is called. (*Ibid*, § 6.)

**85.** The board of directors shall superintend the concerns of said company, and shall have the management of the funds and property thereof, and of all matters and things thereto relating, not otherwise provided for by said company. They shall have power from time to time to appoint a secretary, treasurer, and such other officers, agents, and assistants as to them may seem necessary, and prescribe their duties, fix their compensation, and take such security from them as they may deem necessary for the faithful performance of their respective duties. They shall determine the rate of insurance, the sum to be insured on any building, not to exceed two-thirds of its value, nor one-half of the value of personal property, and the sum to be deposited for the insurance thereof. They shall order and direct the making and issuing of all policies of insurance, the providing of books, stationery, and other things needful for the office of said company, and for carrying on the affairs of said company, and may draw upon the treasurer for the payment of all losses which may have happened, and for expenses incurred in transacting the concerns of said company. They shall elect one of their own number to act as president, and may hold their meetings monthly, and oftener if necessary, for transacting the business of said company, and shall keep a record of their proceedings; and any member disagreeing with a majority of the board at any meeting, may enter his dissent with his reasons therefor, on record. (*Ibid*, § 7.)

**86.** The directors may extend the insurance of said company to every part of the county, on all the real or personal property within the same, with the exceptions and provisions hereinafter enacted, not exceeding the sum of ten thousand dollars on any one risk, at such rate or rates as said directors may, in view of the equity of the case, and in the interest of the company, determine. Insurance shall be made upon the representation of the assured, contained in his application therefor and signed by him or his attorney, which representation shall in fairness and good faith, state all the material circumstances within his knowledge which may affect the risk; *Provided*, That in case of any loss or damage by fire, the valuation of the property at the time of such loss or damage, shall be determined by the award of impartial men as hereafter provided. (*Ibid*, p. 92, § 8.)

**87.** Books of accounts, written security or evidence of debt, title deeds, manuscripts or writings of any description, money or bullion, shall not be deemed, nor taken to be, objects of insurance in said company; curiosities, jewels, medals, musical instruments, plate, paintings, sculpture, statuary, watches, gold or silver ware of any kind, shall not be deemed to be included in any policy of insurance, unless those articles or any of them form part of the usual and regular stock in trade of the assured, or are particularly specified

in the policy. Breweries, chemical establishments, bleaching houses, or mills, or the contents of either of them, alcohol, aquafortis, gunpowder, spirituous liquors, tar, turpentine, varnish, or any other trades, wares or merchandise which may hereafter be excluded by said company at any annual meeting, shall never be deemed insurable by the directors of said company, nor any policy issued thereon. (*Ibid*, § 9.)

88. No policy of insurance shall be issued to any person unless a majority of the board of directors concur in the issuance of the same; and every person who shall become a member of the company by effecting insurance therein, shall, before he receives his policy, pay to the company a fee for membership not to exceed five dollars, and also deposit with the company such a per cent. upon the risk taken for him as shall have been determined by the directors; or, if the company prefer to do business upon a premium note basis and so express it in their constitution or articles of association, in lieu of the above they may require each member before he receives his policy, to deposit his promissory note for such sum or sums of money as shall be determined by the directors, a part, not exceeding ten per cent. of which note, shall be immediately paid, for the purpose of discharging the incidental expenses of the company, and the remainder of said deposit note shall be made payable in whole or in part, at any time when the directors shall deem the same requisite for the payment of losses or other expenses; and at the expiration of the term of insurance the said cash deposit or the said note, or such part of the same as shall remain unconsumed or unpaid, after deducting all losses and expenses accruing during said time, shall be relinquished and given up to the depositor of the cash, or to the signer of the note, as the case may be. (*Ibid*, § 10.)

89. Every member of said company shall be, and hereby is, bound to pay his proportion of all losses and expenses happening or accruing in and to said company; and all buildings insured by and with said company, together with the right, title and interest of the assured to the lands on which they stand, shall be pledged to said company, and the said company shall have a lien thereon against the assured, during the continuance of his, her, or their policies. (*Ibid*, p. 93, § 11.)

90. In case of any loss or damage by fire happening to any member of said company, upon property insured in and with said company, the said member shall give notice thereof in writing to the directors or some one of them, or to the secretary of said company, within thirty days from the time such loss or damage may have happened; and the directors upon a view of the same, or in such other way as they may deem proper, shall ascertain and determine the amount of loss or damage; and if the party suffering is not satisfied with the determination of the directors, the question may be submitted to referees, or the said party may bring an action against said company for the said loss or damage, at the next circuit court to be holden in the county; and not afterwards, unless said court shall be holden within sixty days after said determination, but if holden within that time, then at the next court holden in said county thereafter; and if upon trial of said action a greater sum shall be recovered than the amount determined by the directors, the parties suffering shall have judgment therefor against said company, with interest thereon from the time said loss or damage happened, and costs of suit; but if no more shall be recovered than the amount

aforesaid, the said party shall become non-suit, and the said company shall recover their costs; *Provided, however,* That the judgment last mentioned shall in no wise affect the claim of said suffering party to the amount of loss or damage as determined by the directors aforesaid; and *Provided also,* That execution shall not issue on any judgment against said company until three months after the rendition thereof. (*Ibid*, § 12.)

**91.** The directors, after receiving notice of any loss or damage by fire, or accident sustained by any member and ascertaining the same, or after the rendition of any judgment as aforesaid against said company for loss or damage, shall settle and determine the sum to be paid by the several members thereof as their respective proportion of said loss, and notify them thereof in such manner as they shall see fit, or as the by-laws may have prescribed, and the sum to be paid by each member shall always be in proportion to the amount of risk such member has in the association; and if any member shall for the space of thirty days after such notice, neglect or refuse to pay the sum assessed upon him, her or them, as his, her or their proportion of the sum aforesaid, in such case it shall be taken as a voluntary surrender of his, her or their policy by such member or members, in proportion to the amount that his, he or their deposit has been reduced; and in case of such member or members suffering loss thereafter, he, she or they shall only be entitled to recover of the company on his, her or their policy, in proportion to the amount of his, her or their deposit, not consumed in the payment of losses and expenses paid prior to his, her or their loss; *Provided,* That in companies adopting the premium note basis, the sum to be paid by each member as his or her share of any loss, shall always be in proportion to the original amount of his or her premium note or notes, and shall be paid to the treasurer within thirty days next after the reception of said notice; and if any member shall for the space of thirty days after such notice neglect or refuse to pay the sum assessed upon him, her or them, as his, her or their proportion of any sum as aforesaid, in such case the directors may sue and recover the whole amount of his, her or their deposit note or notes, with costs of suit, and the money thus collected shall remain in the treasury of said company, subject to the payment of such losses and expenses as have or may thereafter accrue, and the balance, if any remain, shall be returned to the party from whom it was collected, on demand, after thirty days from the term for which insurance was effected. (*Ibid*, § 13.)

**92.** And if it shall ever so happen that the whole amount of deposit notes or cash shall not be sufficient to pay the loss occasioned by any one fire, in such case the sufferers insured by said company shall receive towards making good their respective losses, a proportionate dividend of the whole amount of said notes or cash, according to the sums by them respectively insured, and in addition thereto a sum to be assessed on all the members of said company, not exceeding forty cents on every one hundred dollars by them respectively insured, and the said members shall never be required to pay for any loss occasioned by fire, more than fifty cents on each one hundred dollars insured in said company, in addition to the amount of the deposit note or cash, nor more than that amount for any such loss after his said note or cash shall have been paid in and expended, or after his original cash-deposit shall have been expended; but any member upon the payment of the whole amount of



his deposit note or cash and surrendering his policy before any subsequent loss or expense has occurred, may be discharged from said company. (*Ibid*, p. 94, § 14.)

**93.** Said company may make insurance for any term not less than one month, nor more than ten years, and for the convenience of shippers may issue open policies, as is usual in other insurance companies; and any policy of insurance issued by said company, signed by the president and countersigned by the secretary, shall be deemed valid and binding on said company in all cases wherein the assured has a title in fee simple unencumbered to the building or buildings insured, and to the land covered by the same, but if the assured have a lease estate thereon, or if the premises be encumbered, the policy shall be void, unless the true title of the assured and the encumbrances be expressed thereon. (*Ibid*, § 15.)

**94.** The directors shall settle and pay all losses within three months after they shall have been notified as aforesaid, unless they shall judge it proper within that time to rebuild the house or houses destroyed, or repair the damages sustained, which they are empowered to do in convenient time; *Provided*, They do not lay out and expend in such buildings or repairs more than the sum insured on the premises, but no allowance is to be made in estimating damages in any case for gilding, historical or landscape paintings, stucco or carved work, nor are the same to be replaced if destroyed by fire. (*Ibid*, § 16.)

**95.** When any house or other buildings shall be alienated by sale or otherwise, the policy thereon shall be void and be surrendered to the directors of said company to be canceled, and upon such surrender, the assured shall be entitled to receive his, her or their deposit note upon the payment of his, her or their proportion of all losses and expenses that have occurred prior to such surrender; *Provided, however*, That the grantee or alienee having the policy assigned to him, may have the same ratified and confirmed to him, her or them, for his, her or their proper use and benefit, upon application to the directors, and with their consent, within thirty days next after such alienation, on giving proper security to the satisfaction of the said directors for such proportion of the deposits or premium note as shall remain unpaid, or by depositing the proper sum in cash, and by such ratification or confirmation, the party causing the same shall be entitled to all the rights and privileges, and subject to all the liabilities to which the original insured was entitled and subjected under this act. (*Ibid*, § 17.)

**96.** If any alteration shall be made in any house or building by the proprietor thereof, after insurance has been made thereon with said company, whereby it may be exposed to greater risk or hazard from fire than it was at the time it was insured, then and in every such case the insurance made upon such house or building shall be void, unless an additional premium and deposit after such alteration be settled with and paid to the directors; but no alteration or repairs in buildings not increasing such risk or hazard shall in anywise affect the insurance previously made thereon. (*Ibid*, p. 95, § 18.)

**97.** In case any building or buildings situated on leased lands, and insured by said company, be destroyed by fire, and the owner or owners thereof shall prefer to receive the amount of said loss in money, in such case the directors may retain the amount of the premium note given or cash deposited for the insurance thereof,

until the time for which insurance was made shall have expired; at the expiration thereof the assured shall have a right to demand and receive such part of such retained sum or sums as has not been expended in losses and assessments. (*Ibid*, § 19.)

**98.** If insurance on any house or building shall be and subsist in said company, and in any other office or from and by any other person or persons at the same time, the insurance made in and by said company shall be deemed and become void, unless such double insurance subsist by and with the consent of the directors, signified by endorsement on the back of the policy, signed by the president and secretary. (*Ibid*, § 20.)

**99.** The company hereby created shall not be concerned in trade or other business, except the insurance of property against loss or damages by fire, or otherwise as specified, nor shall said company by any possible construction of the powers granted in this act, exercise any banking privileges whatever; but this act shall be liberally construed to effect the ends and purposes hereby intended and contemplated. (*Ibid*, § 21.)

**100.** The directors of any company organized under the provisions of this act, and doing business on the premium note basis, shall not make more than one assessment for losses in any one year; and in order that such assessment may be made payable at the annual meeting of the company, the directors are authorized, in case of any loss or damages by fire, to borrow such sum or sums of money as may be required to pay such loss or damage; and in making the annual assessments, the interest accruing on money borrowed, and also all necessary incidental expenses, shall be included in such assessment. (*Ibid*, § 22.)

**101.** Each and every member of said company shall be entitled to and allowed an examination of the books, papers, and general transactions of said company, upon application therefor to the secretary. (*Ibid*, § 23.)

**102.** It shall be the duty of the directors to make an annual report of the condition, progress and affairs of said company, a copy of which report shall be published in some newspaper printed in said county. (*Ibid*, p. 96, § 24.)

**103.** The individuals named in the constitution or articles of association as the directors of the company shall constitute the board of directors for said company, to serve as such until the first annual election of directors therein provided. Seven members shall constitute a quorum for the transaction of business. They may call the first meeting of the members of said company at any suitable time and place in the county, by advertising in at least one newspaper printed in said county, giving at least ten days' notice of the place, time and design of said meeting. They may make and establish by-laws for the government of said company, until the first annual meeting thereof, and may transact any business necessary and proper to carry into effect the provisions and intentions of this act. (*Ibid*, § 25.)

**104.** All companies incorporated under the provisions of this act are hereby exempted from the operation of all other general statutes of this State in regard to insurance, but such companies shall be subject, as far as applicable, to the provisions of chapter sixty-two of the general statutes of the State. (*Ibid*, § 26.)

## LIFE INSURANCE COMPANIES.

**105.** Any number of persons, not less than thirteen, may associate and form a company for the purpose of making assurance upon the lives of individuals, and every assurance pertaining thereto or connected therewith, and to grant, purchase and dispose of annuities and endowments of every kind and description whatsoever. (*Wagner's Statutes*, 1870, p. 738, § 1.)

**106.** For the purposes of this act, corporations doing the business mentioned in the preceding section, which are owned and controlled entirely by the stockholders, and in neither the management nor the profits of which the policy-holders participate, shall be considered joint stock companies; such corporations having no capital stock, and in the management and profits of which the policy-holders alone participate, shall be considered mutual companies; and such corporations having a capital stock, but in the management or in the profits of which, or in both, the policy-holders, or any class or classes of policy-holders, are or may become entitled to participate, shall be considered stock and mutual companies. (*Ibid*, § 2.)

**107.** No corporation formed under any general law of this State concerning life assurance shall adopt the name of any existing company or association transacting the business mentioned in the first section of this act nor any name so similar thereto, as to be calculated to mislead the public. (*Ibid*, § 3.)

**108.** The persons mentioned in the first section of this act shall be designated as corporators, and such corporators, desiring to form a company for the purpose of transacting the business mentioned in the first section of this act, or any part of the same, shall file in the office of the Superintendent of the Insurance Department a declaration signed by each of said corporators, setting forth the place of residence of each of them and their intention to form a corporation for the purpose of transacting the business aforesaid, which declaration shall comprise a copy of the charter proposed to be adopted by them, and they shall publish once in each week, or oftener, for at least four weeks, in a newspaper of general circulation, published in the county where such corporation is proposed to be located, a notice of the filing of such declaration, together with a copy of the same. (*Ibid*, § 4.)

**109.** When such corporators propose to form a joint stock company for the purposes designated in the first section of this act, the charter comprised in the declaration mentioned in the fourth section shall set forth: First, The name assumed by such corporation and by which it shall be known; Second, The place where the principal office for the transaction of its business shall be located; Third, The specific kind or kinds of business which it proposes to transact; Fourth, The amount of its capital stock, and the number of shares into which it shall be divided, and the manner in which it shall be paid up or secured; Fifth, The manner in which the corporate powers granted by this act shall be exercised, showing the number of directors, which shall not be less than nine nor more than thirteen, their powers and duties, the manner of electing them, the mode of filling vacancies, and such other particulars as may be necessary to make manifest the objects and purposes of the corporation, and the manner in which it is to be conducted. (*Ibid*, § 5.)

**110.** Whenever the corporators shall have filed the declaration required by the fourth section aforesaid, and also proof of the publication therein required, by the affidavit of the publisher of the newspaper in which the publication was made, his foreman or clerk, with the Superintendent of the Insurance Department, it shall be the duty of said Superintendent to submit such declaration to the Attorney-General of this State for examination, and if it shall be found by him to be in accordance with the provisions of this act, and not inconsistent with the constitution and laws of this State and the United States, he shall so certify, and deliver it back to the Superintendent, who shall cause the said declaration and affidavit, with the certificate of the Attorney-General, to be recorded in a book kept for that purpose, and shall furnish a certified copy of the same to the corporators, upon the receipt of which they shall be a body politic and corporate, and may proceed to organize in the manner set forth in their charter, and to open books for subscription to the capital stock of the company, and keep the same open till the whole amount specified in the charter is subscribed, but it shall not be lawful for such company to issue policies, or transact any business of any kind or nature whatsoever, except as aforesaid, until they have fully complied with the requirements of the seventh, eighth and twenty-first sections of this act. (*Ibid*, p. 739, § 6.)

**111.** Upon being notified that the capital stock named in the charter has been subscribed, and one hundred thousand dollars thereof paid in, the Superintendent shall make an examination, or cause one to be made by some disinterested person specially appointed by him for that purpose; and if it shall be found by himself, or if the person so appointed shall certify under oath that the provisions of the nineteenth section of this act have been complied with by said company, so far as applicable thereto, which certificate, when made, shall set forth the particulars of such compliance, then the Superintendent shall so certify, and the corporators or officers of such company shall be required to certify, under oath, to the person making such examination, that the money, notes, stocks, bonds, mortgages, and deeds of trust exhibited to him are *bona fide* property of said company. (*Ibid*, § 7.)

**112.** When the corporators have fully complied with the requirements of the preceding sections, and said corporation has deposited with the Superintendent of the Insurance Department the amount of capital required to be deposited by the twenty-first section of this act, it shall be his duty to furnish the company a certificate of such deposit, and his certificate of authority for it to commence the business proposed in its charter, which, with the certified copies of the aforesaid declaration and certificates, on being filed and recorded in the office of the Recorder of the county in which the company is to be located, shall be its authority to commence business and issue policies; and such certified copies of the declaration, certificates and certificate of deposit may be used in evidence for or against said company, with the same effect as the originals. (*Ibid*, § 8.)

**113.** When such corporators propose to form a mutual company for the purpose designated in the first section of this act, the charter comprised in the declaration mentioned in the fourth section shall set forth: First, The name assumed by such corporation, and by which it shall be known. Second, The place where the principal office for the transaction of its business shall be located. Third,



The specific kind or kinds of business which it proposes to transact. Fourth, The number of persons from whom proposals for assurance shall be received, the amount of premiums to be received on deposit, and the amount of cash to be paid on the same, before the company shall begin to do business and issue policies. Fifth, The manner in which the corporate powers granted by this act are to be exercised, showing the number of directors, which shall not be less than thirteen nor more than the number stated in its charter, their powers and duties, the manner of their election, the mode of filling vacancies, and such other particulars as may be necessary to make manifest the objects and purposes of the association, and the manner in which it is to be conducted. (*Ibid*, p. 740, § 9.)

**114.** Whenever the corporators shall have filed the declaration required by the fourth section of this act, and also proof of the publication therein required by the affidavit of the publisher of the newspaper in which the publication was made, his foreman or clerk, with the Superintendent of the Insurance Department, it shall be the duty of said Superintendent to submit such declaration to the Attorney-General of this State for examination, and if it shall be found by him to be in accordance with the provisions of this act, and not inconsistent with the constitution and laws of this State, and of the United States, he shall so certify and deliver it back to the Superintendent, who shall cause the said declaration and affidavit, with the certificate of the Attorney-General, to be recorded in a book kept for that purpose, and shall furnish a certified copy of the same to the corporators, upon the receipt of which they shall be a body politic and corporate, and may proceed to organize in the manner set forth in their charter, and to open books and receive proposals and agreements for assurance, and premiums for the same on deposit, and issue receipts therefor, and keep such books open until the whole amount specified in its charter is received; but it shall not be lawful for such company to issue policies or transact any business of any kind, except as aforesaid, until it has fully complied with the requirements of the eleventh, twelfth, and twenty-first sections of this act. (*Ibid*, § 10.)

**115.** Upon being notified that the proposals and agreements for assurance named in the charter have been made, and the amount of premiums as therein mentioned have been received, the Superintendent shall make an examination, or cause one to be made, by some disinterested person specially appointed by him for that purpose; and if it shall be found by himself, or if the person so appointed shall certify, under oath, that agreements have been entered into with said company, and premiums received in the manner and to the amount required by the nineteenth section of this act, and that the amount required to be paid to said company is held by it in money or in stocks, notes or bonds, then he shall so certify; and the corporators or officers of such company shall be required to certify, under oath, to the person making such examination, that the money or stocks, notes or bonds, or other obligations exhibited to him, have been received on deposit for premiums on *bona fide* proposals and agreements for insurance. (*Ibid*, p. 741, § 11.)

**116.** When the corporators have fully complied with the requirements of the preceding sections, and said corporation has deposited with the Superintendent of the Insurance Department the amount of stocks, notes, bonds and mortgages, or deeds of trust, required by the twenty-first section of this act, it shall be his duty to

furnish the company a certificate of such deposit, and his certificate of authority for it to commence the business proposed in its charter, which, with the certified copies of the aforesaid declaration and certificates, on being filed and recorded in the office of the Recorder of the county in which the company is to be located, shall be its authority to commence business and issue policies; and such certified copies of the declaration, certificates and certificate of deposit may be used in evidence for or against said company, with the same effect as the originals. (*Ibid*, § 12.)

**117.** When such corporators propose to form a stock and mutual company for the purposes designated in the first section of this act, the charter, comprised in the declaration named in the fourth section, shall set forth all the particulars, mentioned in the fifth section in regard to the formation of corporations on the joint stock plan; and in addition thereto it shall state: First, The extent, if any, to which the policy-holders shall participate in the election of directors and in the management of the company, and the manner in which they shall do so. Second, The time for which it is proposed to remain a stock and mutual company, provided it be intended to limit the same, and the manner of changing into a mutual or stock company, if such change is proposed; but no such change shall be made unless by a two-thirds majority of all the votes cast at a meeting held for that purpose, such meeting to be called by a special notice, stating its object, which notice shall be published for at least once a week for four weeks in a newspaper of general circulation, and published in the county where such company is located. (*Ibid*, § 13.)

**118.** The provisions of the sixth, seventh and eighth sections of this act, relating to the formation of joint stock companies, shall apply in all respects, to the formation of stock and mutual companies. (*Ibid*, p. 742, § 14.)

**119.** Any company incorporated by or organized under the provisions of this act, or any existing company organized under any general law of this State, and doing any business mentioned in the first section of this act, may amend its charter in any manner which shall not conflict with the provisions of this act. Any such company desiring to amend its charter, shall call a meeting of all persons entitled to vote at the election of its directors by a notice, which shall state the object of such meeting, and shall be published once a week, or oftener, for at least four weeks, in a newspaper of general circulation, published in the county where such company shall have its principal office. If a two-thirds majority of all the votes cast at such meeting shall be in favor of such amendment, such company shall file with the Superintendent of the Insurance Department proof of said publication, by the affidavit of the publisher of the newspaper in which such publication was made, his foreman or clerk, and also a copy of the proposed amended charter, which the said Superintendent shall submit to the Attorney-General for examination, and if it be found by him to be in accordance with the provisions of this act, and not inconsistent with the constitution and laws of this State, he shall so certify, and shall deliver it back to the Superintendent, who shall cause the same, together with the affidavit of the publisher and the certificate of the Attorney-General, to be placed on record in his office, and shall furnish a certified copy of such record, and also his certificate of authority to transact business under said amended charter to said company;

and upon the filing of the same in the office of the Recorder of the county where it shall have its principal office, such amended charter shall be the charter of said company. (*Ibid*, § 15.)

**120.** Any existing organization or association, organized under any general or special law of this State, transacting any business mentioned in the first section of this act, desiring to surrender its present charter or license, and reorganize under this act, shall hold a meeting of the persons legally entitled to vote for directors or trustees of such company or association, at which meeting there shall be submitted a declaration in writing, setting forth the intention of said company or association to surrender its present charter and license, and reorganize as aforesaid; and such declaration shall comprise a copy of the charter proposed to be adopted by said company, which charter shall set forth, if it be intended to reorganize as a joint stock company, all the particulars required to be stated in the charters of joint stock companies formed under this act; if as a stock and mutual company, all the particulars required to be stated in the charters of stock and mutual companies formed under this act; or if as a mutual company all the particulars required to be stated in the charters of mutual companies formed under this act by sub-sections one, two, three and five of the ninth section of this act. If a two-thirds majority of the votes cast at such meeting shall be in favor of adopting such declaration and charter, then the directors of such company may proceed to reorganize under this act. The meeting of legal voters, mentioned in this section, shall be called by a notice published once in each week, or oftener, for at least four weeks, in a newspaper of general circulation, and published in the county where such company is located, which notice shall state that such meeting is called for the purpose of adopting a charter in accordance with the provisions of this act. (*Ibid*, § 16.)

**121.** The declaration mentioned in the preceding section shall be signed by a majority of the directors of such company or association, and the president, or vice-president and secretary of such company or association, shall make affidavit that such declaration was voted upon and adopted at a meeting of the legal voters of such company or association and that such meeting was called in the manner prescribed by the preceding section. The declaration herein mentioned and the affidavit of the president and secretary, as aforesaid, shall be filed in the office of the Superintendent of the Insurance Department; and it shall be the duty of such Superintendent to submit the same to the Attorney-General of this State for examination, and if such declaration shall be found by him to be in accordance with the provisions of this act, and not contrary to the constitution or laws of this State or of the United States, he shall so certify and deliver it back to the Superintendent, who shall cause the said declaration and affidavit, with the certificate of the Attorney-General, to be recorded in a book kept for that purpose, and shall furnish a certified copy of the same to the president of such company or association, upon receipt of which it shall be a body politic and corporate under the provisions of this act. (*Ibid*, p. 743, § 17.)

**122.** Whenever such company shall have complied with the requirements of the two preceding sections, and shall have deposited with the Superintendent of the Insurance Department securities to the amount, and of the value and description required by the twenty-first section of this act, to be deposited with him, it shall

be the duty of such Superintendent to furnish such company or association a certificate of such deposit, and his certificate of authority for it to transact the business proposed in its charter, which, with the certified copies of the aforesaid declaration and certificates, on being filed and recorded in the office of the county where such company is located, shall be its authority to transact business and issue policies; and such certified copies of the declaration, and certificate of deposit may be used in evidence for or against such company, with the same effect as the originals. (*Ibid*, § 18.)

**123.** No joint stock or stock and mutual company formed under the provisions of this act, or of any general or special law of this State, for any purpose mentioned in the first section of this act, shall commence or hereafter continue to do business or issue policies unless upon an actual capital of at least one hundred thousand dollars; nor shall any such company commence or hereafter continue to do any business unless the full amount of capital stock named in its charter or articles of association, shall have been in good faith subscribed, nor until such company shall have at least one hundred thousand dollars of its capital paid in and invested in stocks or bonds of the State of Missouri, or in treasury notes or stocks of the United States, or in notes or bonds secured by mortgages or deeds of trust on unencumbered real estate, worth at least double the amount loaned thereon; nor until it holds for the balance unpaid on all its capital stock subscribed for, the notes of the respective subscribers with good and sufficient security therefor, other than the stock of said company; provided, that existing companies shall be allowed six months from the passage of this act within which to receive subscriptions for any of its capital stock which shall not have been subscribed, and for receiving the notes therefor as provided above, and within which to make the investments above required. No mutual company formed under the provisions of this act, or of any general or special law of this State, shall commence or continue to do any business mentioned in the first section hereof, until agreements in writing with such company shall have been entered into by not less than one hundred persons for assurance upon their own lives or the lives of other persons, for their benefit, nor until it shall have received premiums on the same in cash, and partly in cash or partly (in) *bona fide* obligations, to an aggregate amount of not less than one hundred thousand dollars. (*Ibid*, p. 744, § 19.)

**124.** Any company organized under the laws of this State, or doing in this State any business mentioned in the first section of this act, may at any time change the securities, in which its capital or any part thereof is invested, whether the same is deposited with the Superintendent of the Insurance Department, or elsewhere, for any other securities; *Provided*, That the amount or value of the securities required by this act to be deposited with said Superintendent shall, in no case, be diminished or impaired. (*Ibid*, § 20.)

**125.** No company organized under this act, or reorganized under the sixteenth section thereof, shall commence or carry on business until such company has deposited with the Superintendent of the Insurance Department, for the security of its policy-holders, the sum of one hundred thousand dollars in stocks, or in notes or bonds secured by mortgages or deeds of trust of the description mentioned in the nineteenth section of this act; such stocks to consist only of bonds or treasury notes of the United States, or bonds of



the State of Missouri, and in all cases to be, or to be made equal to stock producing six per cent. per annum, and not to be received at a rate above their par value, nor above their current market value. (*Ibid*, p. 745, § 21.)

**126.** No existing corporation organized under any general or special law of this State, and transacting business of the character designated in the first section of this act, shall continue to transact such business unless it shall, within six months after the passage of this act, deposit with the Superintendent of the Insurance Department, for the security of its policy-holders, securities to the same amount and of the same value and description required by the preceding section to be deposited by similar corporations formed under this act. (*Ibid*, § 22.)

**127.** The Superintendent of the Insurance Department shall receive the deposits and securities required by the provisions of this act to be deposited with him, and shall give vouchers for the same to the parties so depositing. He shall at all times require each company to keep up its deposits aforesaid, to the full actual value mentioned in the twenty-first section of this act. Such Superintendent shall be responsible, upon his official bond, for all securities so deposited with him, and suit may be brought upon said bond by any person injured. He shall upon receipt of said securities, forthwith make a special deposit of the same, in packages marked with the name of the company from whom received, in the bank or banks where the State funds are deposited, where they shall remain as security for policy-holders in the companies to which they respectively belong; but so long as any company so depositing shall continue solvent, he shall permit such company to collect the interest or dividends on its securities, so deposited, and from time to time to withdraw any such securities on depositing other securities in the stead of those to be withdrawn; such new securities to be of the same value, and of the kinds mentioned in the twenty-first section of this act; but such securities, or any part of the same, shall not be withdrawn from the bank where deposited, unless upon the written order of the acting president and secretary, or of the directors of the company making the deposit, which order shall be endorsed by the Superintendent of the Insurance Department; or upon the order, or by the authority of some court of competent jurisdiction; and if said Superintendent or his deputy shall willfully fail, refuse or neglect to faithfully keep, deposit, account for or surrender, in the manner by this act authorized or required, any such securities, as aforesaid, received by him or into his custody, under the provisions of this act, such Superintendent or deputy so offending shall, upon conviction thereof, be adjudged guilty of a felony, and punished by a fine not exceeding ten thousand dollars, and by imprisonment in the State penitentiary for not less than two, nor more than ten years; and for any other willful violation of, or failure or neglect to perform any duty prescribed by this act or pertaining to his office, said Superintendent or his deputy, upon conviction thereof, shall be deemed guilty of a misdemeanor, and punished by a fine not exceeding one thousand dollars, or by imprisonment in the county jail not exceeding twelve months, or by both such fine and imprisonment. (*Ibid*, § 23.)

**128.** Any court of competent jurisdiction, wherein a judgment shall have been recovered against any company by which any such securities have been deposited, as hereinbefore required, upon a

policy issued by such company, and execution, issued upon such judgment, shall have been returned partly or wholly unsatisfied, shall upon motion made by the plaintiff in such execution, upon three days' notice to said Superintendent, order said Superintendent to deliver into court out of the securities so deposited by said company, an amount sufficient to satisfy said judgment in full or so far as such certificates shall suffice therefor; which order being obeyed, shall release said Superintendent and the bank surrendering said securities from further liability in respect to the same; and the securities so delivered into court shall be collected or disposed of for the benefit of said plaintiff as provided by law, in respect to notes or securities delivered into court by a garnishee; and whenever any securities, such as aforesaid, shall be delivered into any court under the foregoing provisions, said Superintendent, unless the company against whom such execution issued shall, within three days thereafter, deposit with him other securities of like description and value, and for the like purposes as the securities so withdrawn, shall proceed in respect to such company, in the manner authorized by the forty-first section of this act in respect to companies believed by him to be insolvent or in an unsound condition. (*Ibid*, p. 746, § 24.)

**129.** The corporators or directors of any company organized under this act shall have power to adopt a seal, and to make such by-laws, not inconsistent with this act, or the constitution and laws of this State, as they may deem necessary, for the regulation and management of its affairs. (*Ibid*, § 25.)

**130.** Every company organized under this act or under any general law of this State, shall have two chief officers, one of whom shall be known as the president, and the other as the secretary, and all contracts made by the company shall be signed by both of said officers. Every such company shall also have one or more vice-presidents, and an assistant secretary, who, in the absence of the president or secretary, as the case may be, shall have all the powers and perform all the duties of the president and secretary. Every such company may in its charter specify what number of its directors, not being less than five, shall constitute a quorum. (*Ibid*, § 26.)

**131.** It shall be the duty of the president or vice-president, and secretary or actuary, or a majority of the directors of every life assurance company organized under this act or the laws of this State, annually, on the first day of January, or within thirty days thereafter, to prepare, under oath, and deposit in the office of the Superintendent of the Insurance Department, a statement showing: First, The number of policies issued during the year. Second, The amount of assurance effected thereby. Third, The amount of premiums received during the year. Fourth, The amount received for interest and all other receipts during the year, classifying the items. Fifth, The amount of losses paid during the year. Sixth, The amount of losses unpaid, giving the reasons for such non-payment. Seventh, The amount of expenses, classifying the items. Eighth, The whole number of policies in force, specifying the description. Ninth, The amount of liabilities or risks thereon, and of all other liabilities. Tenth, The amount of capital stock, and how invested. Eleventh, The amount of assets other than capital, specifying the particular sources from whence they have been derived, and the manner in which they are invested; what amount is invested in

real estate, in stocks, promissory notes, and other securities, and what amount is loaned on bonds and mortgages, or deeds of trust, stocks, policies of the company, and other securities, specifying the kinds and amounts. Twelfth, The amount of dividend declared to stockholders and policy-holders, respectively, and how much remains unpaid. Thirteenth, A tabular statement of the policies in force for the whole term of life, showing what number for each age of life, and for what amount of risk, were issued and continued in force the first year of the existence of the company, during the second year, and so on up to the time of making such statement. Fourteenth, A tabular statement of the policies in force for a shorter period than the whole term of life, showing what number for each age of life and for what amount of risk were issued or continued in force during the first year of the company's existence, during the second year, and so on up to the time of making such statement. It shall be the duty of the Superintendent of the Insurance Department to arrange the information contained in the above statements, in a tabular form, or in abstracts, and the same shall be published in his annual report. (*Ibid*, p. 747, § 27.)

**132.** All life assurance companies, organized under any general law of this State, may make distribution among such policy-holders thereof, who may be entitled to share in the profits of such companies, of such surplus as such companies may accumulate, or any part thereof, which distribution shall be made out of actual surplus profits only, and may be declared annually, or once in two, three, four, or five years, as the board of directors or other officers charged with the management of the company's affairs may from time to time determine. Each company in determining the amount of surplus profits shall reserve out of its assets, including capital stock, if any, first, an amount sufficient to provide for all losses, expenses, and liabilities of such company; second, an amount not less than the aggregate net value of all its outstanding policies; said value to be computed as directed for the valuation of policies by the twenty-ninth section of this act. Such companies, in making any such distribution of profits among their policy-holders, may apportion the amount so set apart for distribution in proportion to the sums of money which each policy-holder has contributed to the assets of the company, making a just and equitable allowance for interest thereon. Policies which have become payable before the time when such distribution is made, and after the date of the last previous distribution of surplus, may share in the same equitably and proportionally. (*Ibid*, § 28.)

**133.** It shall be the duty of the Superintendent to make, or cause to be made, a valuation of the policies, additions thereto, annuities, and all other obligations of assurance outstanding on the 31st day of December, A. D., 1873, of every life insurance company doing business in this State, and shall cause such valuation to be made once in each year hereafter of all such obligations in force on the 31st day of December next preceding; *Provided, however*, That any company not of this State, may, instead of a list of policies and other obligations to be valued as hereinbefore described, furnish annually, within three months after the first day of January, a certificate that such a valuation has been made by an organized insurance department in the State under the laws of which such company was organized, which certificate shall set forth the reinsurance reserve upon its policy, obligations in force on the preceding 31st day of

December, and also the rates of mortality, and interest, used in such computations; and *Provided, further*, That such a certificate of valuation shall not be received by the Superintendent of the Insurance Department of this State, if the Superintendent or officer in charge of such other Insurance Department, shall refuse to receive and give full credit to the certificates of the Insurance Superintendent of this State, concerning valuations made under his direction, of the policies and obligations of companies organized under the laws of this State. For the purpose of making such valuations, and for making special examinations under the forty-first section of this act, the rate of interest assumed shall be six per cent. per annum, and the rate of mortality shall be that established by the American Experience Table, in which table the numbers living and dying at each age, and the expectation of life from ages ten to ninety-five (10 to 95), out of one hundred thousand (100,000) living at age ten (10) are as stated in the following schedule, viz.:

[The "schedule" is simply the *American Experience Table of Mortality*, with which the companies are familiar, and which is easily accessible elsewhere. We, therefore, omit its republication in this place.—EDITOR.]

The Superintendent is hereby authorized to make, or cause to be made, valuations of assurance obligations upon other bases of mortality and interest than that hereinbefore set forth, and to certify thereto when requested by the officers of life insurance companies of this State, doing business in other States, in which other tables of mortality and interest are the standards of valuation, and if his certificates of such valuations are not accepted by the insurance officer of such other States, in lieu of policy lists for valuation in such States, he shall then require of the companies of such States, doing business in this State, full lists of their assurance obligations for valuation in his department. The Superintendent may, in his discretion, value policies *seriatim*, or in groups, and use approximate averages for fractions of years, and otherwise, but he shall, in all cases for State purposes, calculate values by the net premiums. If upon a valuation at any time by the Insurance Department of the policy obligations of any company organized under the laws of this State, upon the American Table of Mortality, with six (6) per centum interest, it shall appear that the assets of the company do not exceed its liabilities, exclusive of paid capital, it shall be considered that its further proceedings are hazardous to the public, and the Superintendent shall take against such company the action prescribed in section forty-one (41) of this act; and it is *further Provided, however*, That no company organized under the laws of this State shall make any bonus, dividend or distribution of surplus to policy-holders, or of any profit to stockholders, except lawful interest upon the amount of capital stock actually paid in, unless such company shall be possessed of assets equal in amount to its liabilities, except capital, including a reinsurance reserve, on all of its policy obligations computed upon the American Table of Mortality with four and one-half ( $4\frac{1}{2}$ ) per cent. interest, and no company organized under the laws of any other State or country shall be permitted to do business in this State, if such company shall make such dividends or distributions out of the surplus determined by any lower standard of reserve than the American Table of Mortality, and four and one-half ( $4\frac{1}{2}$ ) per cent. interest. The fees for making valuations shall not exceed ten (10) dollars for each million of dollars of insur-



ance or fractional part thereof for all ordinary forms of policies, and for forms of policies requiring special construction of tables for valuation, the cost of computing such table shall be added; the cost of each valuation shall be paid to the Superintendent of the Department by the company for whose benefit the same has been made. (*Ibid*, p. 748, § 29; *as amended by laws of 1874*, p. 78, § 1.)

**134.** It shall not be lawful for any person to act within this State, as agent or otherwise, in receiving or procuring applications for assurance, or in any manner to aid in transacting the business referred to in the first section of this act, for any life assurance company or association incorporated by or organized under the laws of the United States, or any other State of the United States, or any foreign government, unless such company is possessed of the amount of capital, and of actual paid up capital required of companies formed under the provisions of this act. (*Ibid*, p. 749, § 30.)

**135.** No company mentioned in the preceding section shall transact any such business as aforesaid, by any agent or agents in this State, unless it shall first file with the Superintendent of the Insurance Department, a written instrument duly signed and sealed, authorizing some person who shall be a citizen of this State, to acknowledge or receive service of process for, and in behalf of such company in this State, and consenting that service of process upon such agent or attorney shall be taken, and held to be as valid as if served upon the company, according to the laws of this or any other State, whether such process is issued by any of the courts of this State, or by any of the courts of the United States having jurisdiction within this State, and such instrument shall furthermore provide that such attorney's authority shall continue until revocation of his appointment is made by such company, by filing a similar instrument whereby another person shall be appointed as such attorney. Such company shall have the right from time to time to change every appointment thus made by it, but until a new instrument is filed with the said Superintendent by such company making such change, the attorney last appointed shall continue in authority and remain the designated attorney of such company for the purposes of this act. If any attorney so appointed shall become disqualified, from any cause whatever, or shall die, the company shall immediately fill the vacancy in the manner required for an original appointment. Every such company doing business in this State shall maintain such attorney within the State, in the manner herein described, after it shall have ceased to do any new business, so long as it shall have any policies or liabilities outstanding in this State; and if such company shall have forfeited its right to do business in this State, or shall have voluntarily withdrawn therefrom, and the attorney last appointed shall die, or become disqualified, and the company shall fail within a reasonable time to appoint a person to fill such vacancy, the said Superintendent shall have authority, and it is hereby made his duty, to make such appointment for such company, of which notice shall immediately be given by him to the appointee, and also to the company, and such notice to the appointee shall be evidence of such appointment. Every such appointment executed by such company shall recite the whole of this section, and shall be accompanied by a copy of the resolution of the board of directors or trustees of such company, showing that the president and secretary, or other chief officers of such company, are authorized to execute such instrument on behalf of the company, and if such

company shall fail to appoint and maintain within the State an attorney or agent in the manner hereinbefore described, it shall forfeit the right to do or continue business in this State. (*Ibid*, p. 750, § 30, as amended by laws of 1874, p. 80, § 2.)

**136.** No such company, mentioned in the thirtieth section of this act, shall transact any such business aforesaid, by any agent or agents in this State, unless it shall first file in the office of the Superintendent of the Insurance Department a certified copy of its charter or act of incorporation, together with a statement, under the oath of the president and secretary of such company, showing the condition of the affairs of said company on the first day of January next preceding the date of such oath. The statement shall be in the same form, and shall set forth the same particulars as the annual statement required of companies organized under the laws of this State, by the twenty-seventh section of this act. Such company shall also file a copy of its last annual report, made in compliance with any law of the State or country by which said company was incorporated, if any such report shall have been made. (*Ibid*, § 32.)

**137.** It shall not be lawful for any such company, organized or incorporated under the laws of the United States, or of any other State of the United States, to transact in this State, any business mentioned in the first section of this act, unless one hundred thousand dollars of the capital or assets of such company be invested in treasury notes or stocks of the United States, or in bonds of the State of Missouri, or of the State under the laws of which such company is incorporated, or loaned on notes, or bonds secured by mortgages or deeds of trust on unincumbered real estate, worth at least double the amount loaned thereon, nor unless securities of the kind or kinds aforesaid to the actual value of one hundred thousand dollars shall have been deposited for the security of its policy-holders with the Superintendent or Commissioner of Insurance or chief financial officer of the State, and under and by the laws of the State, in which such company is incorporated, or if such company is incorporated under the laws of the United States, with some financial officer of the United States; *Provided*, That any such company not having such deposit made in the State in which it is organized, or with some officer of the United States, may make such deposit in this State in the manner and subject to the provisions set forth in the twenty-first, twenty-third, and twenty-fourth sections of this act. (*Ibid*, § 33.)

**138.** It shall not be lawful for any such company mentioned in the preceding section, unless such company have made a deposit in this State, as in said section provided, to transact in this State any business mentioned in the first section of this act, until it shall have filed with the Superintendent of the Insurance Department of this State, the certificate of the Commissioner or Superintendent, or chief financial officer aforesaid, under his hand and official seal, certifying that he holds, in trust and on deposit, for the benefit of all policy-holders of such company, the notes, stocks and securities before mentioned, and stating the kind of such notes, stocks and securities, and the amount of each, and that he is satisfied they are worth one hundred thousand dollars. (*Ibid*, p. 751, § 34.)

**139.** No such company incorporated by or organized under the laws of any foreign government, shall transact business in this State unless it shall first deposit with the Superintendent of the

Insurance Department of this State, for the benefit of the policyholders of said company, citizens or residents of the United States, bonds, or securities to the amount of one hundred thousand dollars, of the kind required of similar companies organized under this act in this State, subject to the provisions of the twenty-third and twenty-fourth sections of this act; *Provided*, That if such deposit has been made in any other State of the United States, under the laws thereof, in such a manner as to secure, equally, all the policyholders of such company, citizens and residents of the United States, no deposit shall be required in this State, but a certificate of such deposit shall be filed with the Superintendent of the Insurance Department, as required in the thirty-fourth section of this act, in regard to companies organized under the laws of the United States, and of other States of the United States. (*Ibid*, § 35.)

**140.** No company shall transact in this State any business mentioned in the first section of this act, unless it shall first procure from said Superintendent a certificate stating that the foregoing requirements have been complied with, and authorizing it to do business; a copy of which certificate certified by the Superintendent, and issued only upon the request of the president or secretary, or other chief officer of the company, or of a general agent of the company for this State, notice of whose appointment has been filed in the Department, shall be held by every agent or solicitor for such company doing business for such company within this State, and such copy shall in some convenient and distinct manner set forth the name of the person, agent or solicitor for whose use it is issued. Every such company shall be required to procure annually, for the use of its agents and solicitors, copies of the renewed certificate of authority hereinafter provided for, to wit: in section thirty-nine (39) of this act. (*Ibid*, § 36, as amended by laws of 1874, p. 81, § 3.)

**141.** Every such company incorporated by, or organized under the laws of the United States, or any other State of the United States, and doing business in this State, shall, annually, on the first day of January, or within thirty days thereafter, file with the Superintendent of the Insurance Department of this State, a statement of its affairs, in the same manner and form as provided in the twenty-seventh section of this act, for similar companies organized under the laws of this State. (*Ibid*, p. 752, § 37.)

**142.** Every such company incorporated by, or organized under the laws of any foreign government, and doing business in this State, shall, annually, on the first day of January, or within thirty days thereafter, file with the Superintendent of the Insurance Department, a statement of its affairs, in the same manner and form as provided in the twenty-seventh section of this act for the annual statements of similar companies organized in this State. Said statements shall be made up for the year ending on the preceding thirtieth day of June, and shall be accompanied by a supplementary annual statement, certified to under oath, by some officer or agent of the company, giving: First, A detailed description of the policies issued, and of those which have ceased to be in force during the year, throughout the United States; Second, The amount of premiums received, and claims and taxes paid in this State and in the United States for the year ending on the thirty-first day of the preceding December. Such supplementary statement shall also contain a description of the investments of such company in the United



States, and such other information as may be required by said Superintendent. (*Ibid*, § 38.)

**143.** If the said annual statements mentioned in the twenty-seventh (27), the thirty-seventh (37), and the thirty-eighth (38) sections of this act shall be satisfactory evidence to the Superintendent of the solvency of the company filing the same, and its ability to meet all its engagements at maturity, he shall issue a renewed certificate of authority to such company to continue business, and no company not incorporated under the laws of this State shall thereafter continue to do business until such renewed certificate is issued as aforesaid. (*Ibid*, § 39, as amended by laws of 1874, p. 81, § 4.)

**144.** Every company doing the business mentioned in the first section of this act, or any part thereof, in this State, shall pay to the Superintendent of the Insurance Department the following fees, which shall go to the support of said Department, and shall be in lieu of all taxes, fees, and licenses whatsoever, collected for the benefit of the State: For filing the declaration required by this act, on the organization of companies, \$50; for filing statement and certified copy of charter, required of companies not organized under the laws of this State, \$50; for filing annual statements, \$50; for filing supplementary annual statements, \$25; for filing any other paper required by law to be filed in the office of said Superintendent, \$10; for furnishing copies of records, papers, and other documents, per folio, 20 cents; for affixing seal of office, \$1; but all companies organized under the laws of the United States, or any other State, doing in this State the business mentioned in the first section of this act, shall be subject to existing laws relating to fees and licenses for county and municipal purposes. All companies organized under the laws of this State, and doing the business mentioned in the first section of this act, shall pay all fees as required by this section; which shall be in lieu of all fees or taxes whatever, except that they may be taxed upon their paid-up capital stock, the same as other property in the county, for county and municipal purposes. (*Ibid*, § 40.)

**145.** It shall be the duty of the Superintendent of the Insurance Department, whenever he shall have good reason to suspect that the affairs of any life assurance company incorporated under the laws of this State, or doing business in this State, are in an unsound condition, to require of said company a special statement of its affairs; and if said Superintendent shall not be satisfied that the affairs of said company are in a safe condition, or if any three stockholders or policy-holders of such company shall make affidavit that they believe such special statement, or any annual statement, to be incorrect or untrue, setting forth in what respect and on what grounds they believe the same untrue, then the said Superintendent shall have power to make a personal examination of the affairs of said company, or cause one to be made by some disinterested person or persons, specially appointed by him for that purpose, and the said Superintendent, or person or persons so appointed by him, shall have power to examine, under oath, the officers or agents of any company in relation to the business of said company, and it shall be the duty of the officers and agents of any assurance company doing business in this State, to cause their books to be opened for the inspection of said Superintendent, or any person or persons appointed by him to make such examination, and otherwise to facilitate such examination, as far as it may be in their power so



to do; and said Superintendent shall certify, in writing, to the president of said company the result of such examination; and whenever it shall appear to the said Superintendent, from an examination made by himself, or from the report of the person or persons appointed by him, that the affairs of any company not incorporated by the laws of this State, and doing in this State any business mentioned in the first section of this act, are in an unsound condition, he shall revoke the certificate of authority granted to such company, and shall cause a notice of such revocation to be published once a week, or oftener, for at least four weeks, in some newspaper published in the city of St. Louis; and the agent or agents of such company are, after such revocation and notice, required to discontinue the issuing of any new policies or the collection of any premiums; and if upon any such examination it shall appear to said Superintendent that any company created by or organized under any law of this State, and doing any business mentioned in the first section of this act, is insolvent, or that its condition is such as to render its further proceedings hazardous to the public, or to those holding its policies, he shall file in the clerk's office of the circuit court of the county in which such company was organized, or in which it has its principal office or place of business, a petition setting forth the condition of said company as aforesaid, and praying for a writ of injunction to restrain said company, in whole or in part, from further proceeding with its business. Such writ shall thereupon issue, together with the summons against said company, returnable in three days thereafter, which shall be served as provided by law for service of process upon corporations. If such process be not served, then further like process shall issue, returnable as the court or a judge thereof in vacation may direct, and the court or judge, whenever satisfied that process cannot be served, may order said company to be notified by publication, as in case of non-resident defendants. Upon the return of such process duly served, or proof of such publication made, the petition shall be heard summarily before said court, or a judge thereof, who may at such hearing, or at any time thereafter for cause shown, dissolve, modify, or continue the injunction, and shall set a day for the final hearing of said cause without unnecessary delay; said company shall, unless longer time be granted, answer the allegations of said petition on or before the third day after the time when it is bound to appear; failing in which, judgment may be entered against it by default. All proceedings had, and orders or decrees made, under the provisions of this section, before or by a judge in vacation, shall be entered (of) record as of a special term of the court of which he is judge. One or more referees versed in questions of life insurance may be appointed by the court or judge, to report upon the condition of said company, or upon any question of fact arising in the cause. The court or judge may at any time after the filing of the petition appoint agents or receivers to take possession of the property of said company, and may, upon the final hearing, make such orders and decrees as may be needful to suspend, restrain, or prohibit the further continuance of the business of said company, or any part thereof, or for the dissolution of said company and the winding up of its affairs. From a final judgment or decree in any such cause, an appeal or writ of error may be taken as provided by law in respect to final judgment of the court rendering the same; or, if in the county of St. Louis, as from a final judgment or decree of the circuit court at special term.

The court or judge may appoint an attorney to assist said Superintendent in any such proceeding. The costs and reasonable expenses of any examination or proceeding authorized by this section, including reasonable attorney's fees, to be allowed and taxed as costs by the court or judge appointing such attorney, as aforesaid, shall be paid by the company so examined or proceeded against, and such expenses, other than taxed costs, may be recovered by said Superintendent in an action therefor, against such company; *Provided*, That if any injunction issued hereunder be dissolved, and the court or judge dissolving the same not state in the order or decree of dissolution that there was reasonable ground for procuring such injunction, the costs of such proceeding shall be taxed to and paid by the Superintendent of the Insurance Department, and shall be allowed him in his accounts upon proper vouchers therefor, as expenses of said Department. (*Ibid*, p. 753, § 41.)

**146.** The Superintendent of the Insurance Department shall cause to be prepared, and furnish to every company to which this act shall apply, printed forms of the statements herein required; and he may make such changes from time to time in the same, and in the statements required, as shall seem to him best adapted to elicit from said companies a true exhibit of their condition in respect to the several points hereinbefore enumerated. (*Ibid*, p. 755, § 42.)

**147.** When any company which has made the deposit of securities named in this act with the Superintendent of the Insurance Department, shall desire to relinquish its business, said Superintendent shall, upon application of such company, under the oath of the president, or vice-president and secretary or assistant secretary, give notice of such intention in any newspaper of general circulation published in the county in which said company is located, at least twice a week for six months. After such publication he shall endorse an order signed by the acting president and secretary, or by the directors of such company, upon the bank or banks in which the same are deposited, directing them to deliver up and pay over to said company the securities held by such banks and belonging to the company; but before endorsing such order, the Superintendent shall be satisfied by an examination of the books and papers of such company, to be made by himself or some competent person, not an officer of any life insurance company in this State, to be appointed by him, and by the oath of the acting president and secretary or assistant secretary of said company, that all debts and liabilities of every kind that are due, or may become due, upon any contract or agreement made with any policy-holder in said company are paid and extinguished; and the said Superintendent may, from time to time, authorize the delivery in the manner aforesaid, to such company or its assigns, of any portion of such securities, on being satisfied in the manner and form aforesaid, that all the debts and liabilities of every kind that are due, or may become due, upon any contract or agreement made with any such policy-holder by said company are less than one-half the amount of the portion of the said securities which are retained. (*Ibid*, § 43.)

**148.** Every company organized under any general law of this State for the purposes mentioned in the first section of this act, may make and enter into all manner of contracts pertaining to the business of such company, or connected with the management of the same; and any such company or association may cause itself to

be wholly or partially reinsured against loss arising from any risk which it may have undertaken, and in like manner may reinsure or guarantee any other corporation against loss arising from any risk of the character mentioned in the first section of this act, and that shall have been, or may be, undertaken by such corporation; or may join with any such corporation in any such risk, and make and enter into all manner of contracts relating to such reinsurance and joint insurance, and the terms upon which the same shall be conducted. (*Ibid*, p. 756, § 44.)

**149.** Every person legally entitled to vote at any election, or on any question relating to the management or business of any company organized under this act, may cast such vote by proxy, but said proxy shall be a legal voter of such company, and the authority to cast such vote shall be in writing and not in printing, and shall state the name of the person authorized to cast such vote, and the date of the meeting at which such vote shall be cast; and no such authority given to any proxy shall be valid unless the same shall have been given within thirty days prior to the meeting at which such vote is to be cast. No proxy shall cast more than one hundred votes. (*Ibid*, § 45.)

**150.** That no individual or association of individuals, under any style or name, shall be permitted to do the business mentioned in the first section of this act within the State of Missouri, unless he or they shall first fully comply with all the provisions of the laws of this State governing the business of life assurance. No company organized under the provisions of this act shall undertake any business or risks, except as herein provided; and no company organized or incorporated by or under the laws of this or any other State of the United States, or any foreign government, transacting the business of life insurance in this State, shall be permitted or allowed to take any other kind of risks except those connected with or appertaining to making assurance on life, and the granting, purchasing and disposing of annuities and endowments; nor shall the business of life assurance in this State be in anywise conducted or transacted by any company which in this or any other State or country, makes insurance on marine, inland fire or any other risks; *Provided*, That no company doing business in this State on the 17th day of March, A. D. 1869, and complying with the provisions of this act, shall be prevented from continuing the same. (*Ibid*, § 46, as amended by laws of 1874, p. 81, § 5.)

**151.** Civil actions may be maintained by any corporation formed under this act against any of its members or stockholders, for any cause relating to the business of such company. Civil actions may also be prosecuted and maintained by any member or stockholder of such corporation against the corporation, for losses which have accrued on any risks, if payment is withheld for more than two months after such losses shall have become due. (*Ibid*, § 47.)

**152.** No company formed under this act shall, directly or indirectly, deal or trade in any goods, wares, merchandise, or other commodities whatsoever, except as provided in the first section of this act. (*Ibid*, § 48.)

**153.** No company formed under this act shall be permitted to purchase, hold or convey real estate, excepting for the purpose and in the manner herein set forth, to wit: First, Such as shall be requisite or convenient for its accommodation in the transaction of its business; or, Second, Such as shall have been mortgaged in good

faith by way of security for loans previously contracted for moneys due; or, Third, Such as shall have been conveyed to it in satisfaction of debts previously contracted in the course of its dealings; or, Fourth, Such as shall have been purchased at sales upon the judgments, decrees or mortgages obtained or made for such debts. And it shall not be lawful for any company incorporated as aforesaid to purchase, hold or convey real estate in any other case or for any purpose; and all such real estate as may be acquired as aforesaid, and which shall not be requisite or convenient for the accommodation of such company in the convenient transaction of its business, shall be sold and disposed of within five years after such company shall have acquired absolute title to the same; and it shall not be lawful for such company to hold such real estate for a longer period than that above mentioned, unless the said company shall procure a certificate from the Superintendent of the Insurance Department that the interests of the company will suffer materially by a forced sale of such real estate, in which event the time for the sale may be extended to such time as the Superintendent of the Insurance Department shall direct in such certificate. (*Ibid*, p. 757, § 49.)

**154.** Every existing company incorporated under the laws of this State for the purpose of transacting the business mentioned in the first section of this act, or any part of the same, shall be subject to all the requirements and provisions of this act. (*Ibid*, § 50.)

**155.** Whenever the laws of any other State of the United States, or of any foreign country, shall require of, or impose upon, companies not organized under the laws of such State or country, any further or greater licenses, fees, taxes, deposits of securities, statements or certificates of authority, or require any other duties or acts, or inflict any greater fines or penalties than are by the laws of Missouri imposed or inflicted upon, or required of companies not organized under the laws of this State, then it shall be the duty of the Superintendent of the Insurance Department of this State, to require from every company of such other State, or country transacting or seeking to transact the business of life assurance in this State, the payment of all licenses, fees, taxes, fines, or penalties, and the making of all deposits of securities and statements, and the doing of all acts which, by the laws of the State or country in which said company was organized, are in excess of the licenses, fees, taxes, deposits, statements, fines, penalties, acts or duties required by the laws of this State of companies of other States. (*Ibid*, § 51, *as amended by laws of 1874*, p. 82, § 6.)

**156.** Every violation of this act shall subject the party violating to a penalty of five hundred dollars for each violation, which shall be sued for and recovered in the name of the State of Missouri, by the Attorney-General of the State, or Circuit Attorney of the circuit in which the company or agent or agents so violating shall be situated, and one-half of such penalty, when recovered, shall be paid into the treasury of the State, and the other half to the informer of such violation; and in case of non-payment of such penalty, the party so offending shall be liable to imprisonment for a period not exceeding six months, in the discretion of any court having cognizance thereof. (*Ibid*, p. 758, § 52.)

**157.** All such provisions of chapter sixty-seven (67), and ninety (90), of the General Statutes of the State of Missouri, as relate to the business mentioned in the first section of this act, and to companies transacting such business, and all other acts and parts



of acts inconsistent with the provisions of this act, are hereby repealed; *Provided*, That nothing in this act contained shall be construed to affect the corporate existence or the rights as such of any corporation now existing, heretofore organized under any general law of this State; *Provided*, That nothing in this act contained shall be so construed as to prevent the repeal or amendment of the same, or any section thereof, by the present or any future General Assembly of this State. (*Ibid*, § 53.)

**158.** Any company organized under the laws of this State as a joint stock, or stock and mutual company, doing business as a life insurance company, may at any time increase its capital stock to any amount, not exceeding one million dollars, with the consent of majority in interest of the stockholders; such consent shall be certified to by the secretary of the company, under oath, and shall state the names of the stockholders, and the number of shares voted by each stockholder, and file the same in the office of the Superintendent of the Insurance Department. (*Laws of 1872, p. 42, § 1.*)

**159.** Any company that shall increase its capital stock, under the provisions of the first section of this act, shall in all things comply with the provisions of an act entitled "An Act for the Incorporation and Regulation of Life Assurance Companies," approved March 10, 1869, its stock subscribed and secured as provided in sections nineteen, twenty and twenty-one, of said act, and nothing in this act shall be so construed as to affect the duties of the Superintendent of the Insurance Department, as provided in section forty-one of said act, and no company increasing its capital stock under the provisions of this act, shall declare and divide, or pay a greater amount as a dividend or profit, than ten per centum per annum on the amount of capital actually paid in, to its stockholders. (*Ibid*, § 2.)

#### REGISTRATION OF LIFE INSURANCE POLICIES AND ANNUITY BONDS, AND DEPOSIT OF SECURITIES WITH THE INSURANCE DEPARTMENT.

**160.** Any life insurance company now or hereafter organized, under any general or special law of this State, or any life insurance company doing business within this State, may deposit with the Superintendent of the Insurance Department, in addition to the amount now required by law to be deposited by life insurance companies in that department, bonds of the United States or of the State of Missouri, or bonds or notes secured by deeds of trust on unincumbered real estate situated in the State of Missouri, and worth with the improvements thereon at least double the sum for which it is so pledged, to any amount not less than ten thousand dollars; and any company so depositing shall make further deposits from time to time as hereinafter provided. (*Laws of 1874, p. 83, § 1.*)

**161.** After making the deposits mentioned in section one of this act, no company shall issue a policy of insurance or endowment or an annuity bond, unless it shall have upon its face a certificate in the following words: "This policy or annuity bond," as the case may be, "is registered and secured by pledge of public stocks or bonds or deed of trust on real estate deposited with this department;" which certificate shall be signed by the Superintendent or his authorized deputy, and sealed with the seal of his office. These policies and bonds shall be known as registered policies and an-

nuity bonds, and a duplicate or copy of each shall be kept in the office of the Superintendent of the Insurance Department; and said Superintendent shall prepare and keep such registers thereof as will enable him to compute their value at any time; and upon written proof attested by the president or vice-president and secretary of the company which shall have issued such policies or annuity bonds that any of them have been commuted or terminated, the Superintendent shall commute or cancel them upon such register; the actual value of every registered policy or annuity bond—when the first premium shall have been paid thereon—less the amount of such liens—not exceeding such value as the company may have against it, shall be entered opposite the record of said policy or annuity bond in the register aforesaid at the time such record is made, and on the last day of each month the Superintendent shall furnish a certificate of the aggregate of such value to the company; on the first days of January and July of each year, or within sixty days thereafter, the Superintendent shall cause the registered policies and annuity bonds of each company to be carefully revalued, and the actual value thereof at the time fixed for such valuation—less such liens—not exceeding such value as the company may have against it, shall be entered upon the register opposite the record of such policy or bond. It shall be the duty of said Superintendent to receive mutilated policies and annuity bonds issued to said companies, and deliver in lieu thereof other policies or bonds of like tenor and date, and in case of lost policies or bonds, to furnish certified copies of the duplicates on file in his office. (*Ibid*, § 2.)

**162.** Each company which shall have made the deposit mentioned in section one of this act shall make additional deposits from time to time so that the market value of the securities deposited shall always be equal to the actual value of the registered policies and annuity bonds issued by said company—less such liens—not exceeding such value as the company may have against it; and all such additional deposits shall be of the securities mentioned in section one of this act, and all valuations of policies and annuity bonds made under the provisions of this act shall be computed according to the standard of valuation designated in section twenty-nine of an act entitled, “An Act for the Incorporation and Regulation of Life Insurance Companies,” approved March 10th, 1869. And so long as the deposits are kept up as provided in this act it shall be the duty of the Superintendent to sign and affix his seal to the certificates mentioned in section two, on every policy and annuity bond presented to him for that purpose by any company [having] made such deposits. (*Ibid*, p. 84, § 3.)

**163.** The Superintendent shall keep a careful record of the securities deposited by each company, and when furnishing the monthly certificates of value mentioned in section two, he shall enter thereon the amount of notes and bonds secured by deeds of trust, together with the market value of the public stock or bonds deposited by such company, under this act, and if, at any time it shall appear from such certificate that the value of the securities held on deposit is less than the actual value of the registered policies and annuity bonds issued by such company, it shall not be lawful for the Superintendent to execute the certificate on any additional policies or annuity bonds of such company until it shall have made good the deficit. If any such company fail or neglect to make good such deposit for ninety days it shall be deemed to be insolvent, and

shall be proceeded against in the manner provided by law in such cases. (*Ibid*, § 4.)

**164.** Every existing company which shall have made the deposit designated in section one of this act, shall, within twelve months from the date upon which said deposit has been made, deposit with the Superintendent, securities of the description mentioned in section one of this act and in accordance with the provisions hereof, an amount inclusive of the amount deposited under heretofore existing laws, equal to the actual value of all the non-registered policies and annuity bonds which it shall have in force at that time—less such liens—not exceeding such actual value as the company may have against them; and the Superintendent shall furnish said company with a certificate of the description mentioned in section two of this act, to be attached to each of said policies and annuity bonds. The Superintendent shall enter upon each of such certificates the number of the policy or annuity bond to which it belongs; *Provided, however*, that if the annual premiums due on any of the said policies prior to the time designated shall not have been paid in full, said policies shall not be included among those required to be registered and secured by this section until the unpaid premiums, or parts of premiums, or deferred portions of annual premiums—as the case may be—shall have been duly received by the company; but if any of said policies should become paid up and commuted by virtue of a failure to pay the premiums thereon, such paid up or commuted policies shall be registered as herein provided. (*Ibid*, § 5.)

**165.** Should any company depositing under this act, become the owner of real estate for its own use and accommodations, or become temporarily seized and possessed of real estate in satisfaction of debt, for which such real estate was pledged as security, such company may execute its own notes for one half of the value of such real estate, payable to the Superintendent as trustee, and secure the said notes or bonds by duly recorded deeds of trust of said real estate; which notes or bonds thus secured may be deposited with said Superintendent as proper securities under and according to the provisions of this act. (*Ibid*, p. 85, § 6.)

**166.** Any company depositing under this act, may increase its deposits at any time in the description of securities mentioned in section one; provided that no deposit shall be for less than ten thousand dollars. Any such company, whose deposits exceed the actual value of all registered policies and annuity bonds it has in force—less such liens—not exceeding such value as the company may hold against them, may withdraw such excess, or it may withdraw any of said securities at any time by depositing others of equal value, and of the description mentioned in section one, in their stead; and so long as such company shall remain solvent and keep up its deposits, as required by this act, it may collect the interest and coupons on the securities deposited as the same accrues. (*Ibid*, § 7.)

**167.** Each company depositing under this act shall provide an iron box with two good locks of different patterns. The securities deposited by such company shall be placed in said box by the Superintendent, or his legally authorized deputy in the presence of the president, vice-president or secretary of the company, and the box shall be closed and locked by locking both locks. The key of one lock shall remain with the Superintendent, and that of the

other with the company, and the box shall not be opened at any time, except in the presence of the Superintendent or his deputy, and said president, vice-president or secretary; said box shall be kept in the vault of the State Treasurer, or the National Bank of the State of Missouri, in St. Louis, or other authorized depository of the funds, securities and other property of the State. (*Ibid*, § 8.)

**168.** The Superintendent shall be entitled to collect the following fees, including seal, under this act: For issuing certificates of deposits, for which he is hereby required to do, one dollar; for every other certificate, including certificates on registered policies and annuity bonds, fifty cents, except those mentioned in section five, for which, including seal, the fee shall be twenty-five cents; and for computing the net value of policies and annuity bonds, as required by this act, one per cent. per annum for each one thousand dollars of insurance or annuity so valued. (*Ibid*, § 9.)

**169.** The securities deposited under the provisions of this act, shall be legally transferred to the Superintendent of the Insurance Department, and so large an amount thereof as may be necessary to equal at all times the net value of all the outstanding policies and annuity bonds—less such liens—not exceeding such value as the company may hold against them, shall be held by him in trust for the purposes of this act until the obligations of said companies under said registered policies and annuity bonds shall, to the satisfaction of said Superintendent be fully liquidated, canceled or annulled; but nothing in this act shall be construed as implying any obligation on the part of the State to pay the policies and annuity bonds issued under the provisions of this act, beyond a proper application of the securities so deposited towards their liquidation. (*Ibid*, § 10.)

**170.** If at any time the affairs of any life insurance company which has deposited securities under this act, shall in the opinion of the Superintendent, appear in such a condition as to render the issuing of additional policies and annuity bonds by such company, injurious to the public interest, the said Superintendent shall report that fact to the Attorney-General, whose duty it shall be to apply to the Supreme Court for an order, requiring said company to show cause why its business should not be closed. The court shall thereupon proceed to hear the allegations and proofs of the respective parties; and in case it shall appear to the satisfaction of said court that the assets and funds of said company are not sufficient to justify the further continuance of the business of insuring lives, granting annuities and incurring new obligations as authorized by its charter, then the said court shall issue an order enjoining and restraining said company from the further prosecution of its business, and shall appoint a receiver of all the assets and credits of said company. The said receiver, upon filing his bond to the State of Missouri in the amount and with sureties approved by said court, conditioned for the faithful performance of his duties, shall take possession of all the assets and credits of said company, except the securities deposited in the Insurance Department under the provisions of this act, which securities shall remain in said department to be disposed of as hereinafter provided. (*Ibid*, p. 86, § 11.)

**171.** The receiver shall, immediately on entering upon the duties of his office, appoint a competent actuary to be approved by the Superintendent of the Insurance Department, who shall make a



careful investigation, according to the standard fixed by the laws of this State, into the condition of said company, and report thereon in writing under oath to said court and receiver; and if it shall by said report be found that the securities deposited by said company in the Insurance Department, and the assets and credits including the future premiums that will mature on the outstanding policies and other obligations of said company, are sufficient under the laws of this State to pay all the policies, annuities and other obligations of said company, as they may mature by the terms thereof, and the legal costs and expenses incident to the business, and if said actuary's report shall be confirmed by the court, the said receiver shall notify all of the holders of said policies and annuities and other obligations, requiring them to pay to him, as such receiver, all premiums and other payments due, or to become due to said company from time to time on their respective policies and other obligations. Such notice shall be given by depositing the same in the post-office at the place where said company has its principal business office, addressed to said parties respectively at their several residences, so far as the same can be ascertained by said receiver; or, on the confirmation of the report of the said actuary, the court may in its discretion direct the receiver to reinsure all of said registered policies and annuities in some solvent company, on the execution by said receiver of an assignment to said reinsuring company of all securities on deposit in trust for the holders of said policies and annuity bonds. And in case the report of said actuary shall show that the said securities, assets, credits and future premiums are not sufficient under the laws of this State to pay all the policies, annuities, and other obligations of said company, as they may mature by the terms thereof, and the legal costs and expenses of said receivership, the said receiver shall notify the said Superintendent thereof, and the Superintendent shall, with the consent and advice of the Treasurer of the State, and in such manner as the said receiver, Superintendent and Treasurer, or a majority of them shall determine to, sell and convert said securities and assets into money, and the proceeds of such sale or sales shall be paid to said receiver, on his giving his receipt therefor to said Superintendent, and he shall apply the same as follows: To the pay of holders of the registered policies of said company in proportion to the net value of their policies respectively, and to the registered annuitants of said company in proportion to the then present value of their respective annuities as estimated by the legal standard for valuing life insurance and annuity obligations within this State. The surplus derived from such sale or sales, if any there be after the payment last above mentioned, with all other assets of said company, shall then be applied to the payment of all the just debts of said company incurred in the conducting and carrying on of its lawful business. (*Ibid*, § 12.)

**172.** Whenever the business of any company shall be continued under the provisions of the next preceding section, in case the receipt for premiums and from all other sources shall at any time be in excess of the sums required to meet the policy and other obligations of said company, said receiver, whenever such excess shall amount to ten thousand dollars, shall invest such excess in such securities as are authorized to be deposited in the Insurance Department, and shall deposit said securities with the Superintendent in the manner herein provided. If at any time the funds in the hands of said receiver are not sufficient to meet such obligations as

they mature, he shall notify said Superintendent of the amount required to meet the deficiency in respect thereto, and it shall become the duty of the Superintendent to sell, with the consent and advice of the Treasurer of the State, in such manner as the receiver, Superintendent, and Treasurer, or a majority of them shall determine, such portion of said securities as may be required to meet said matured obligations, and the proceeds of such sale or sales shall be paid to said receiver on his giving his receipt therefor to said Superintendent, to be used as required for said matured obligations. (*Ibid*, p. 87, § 13.)

**173.** On the first day of January in every year, or within sixty days thereafter, an examination shall be made by a competent actuary, approved by the Superintendent, into the affairs of said company, and if upon such examination it shall be found that a surplus of its assets, not less in amount than ten thousand dollars, exists after making adequate provision for meeting at maturity all of the obligations of said company, and all the legal expenses of said receivership, and, in case of a joint stock company, over and above the amount of its capital, such portion of said surplus as may be by and under the charter of said company belong to its stockholders, shall be set aside and invested by said receiver in such securities as are authorized to be deposited by life insurance companies in the Insurance Department, as a contingent fund, and scrip therefor shall be issued by said receiver to said stockholders respectively in proportion to their respective shares, bearing six per cent. interest, and payable on the final settlement of the affairs of said company as herein provided. The remainder of such surplus, if the company be a stock company, and the whole of said surplus if it be a mutual company, shall be disposed of as follows: one-quarter of such remainder shall be reserved by said receiver and invested by him in such securities as are authorized to be deposited by life insurance companies in the Insurance Department, as a contingent fund, for which scrip shall be issued by said receiver to all policy-holders entitled under their policies to share in the surplus of said company; and such scrip shall bear interest at the rate of six per cent. per annum, payable annually, and shall be redeemable on the maturity of the respective policies to which said scrip may be related. The remaining three-quarters of said surplus shall be paid by said receiver within one year from said first of January to said policy-holders respectively, in lawful money of the United States. But no scrip shall be issued for any fractional part of a dollar; and any scrip so issued may at any time be called in and canceled by said receiver, without payment, if necessary to better secure the remaining obligations of said company; and all scrip so issued shall have printed thereon a clause to this effect: If on the final accounting of said receiver, after the liquidation of all the obligations of said company as herein provided, and in case of a joint stock company, the return to the respective stockholders of the respective amounts of stock and the scrip issued to them under this act, there shall remain a surplus in the hands of said receiver, it shall be divided by him among the said stockholders proportionately to their respective shares, as provided by the charter of said company, and the balance of said surplus, if any, among the last ten policy-holders of said company, or their legal representatives, in proportion to the amounts of their respective policies; and if not a stock company, such surplus shall be divided among the holders of the last ten policies issued by said

company, or their legal representatives, in proportion to the amount of their respective policies. (*Ibid*, § 14.)

**174.** The receiver of any company under this act shall have all the powers incident to the successful management of its affairs; and to that end, authority to purchase policies issued by said company, to make any other compromise in the settlement of its outstanding obligations, to collect the interest and coupons on all securities held by the Superintendent of Insurance, as well as those held by said receiver, and to use the corporate seal of said company, whenever necessary in the transaction of the business of his receivership. (*Ibid*, p. 88, § 15.)

**175.** The compensation of the receiver under this act shall be fixed by the Superintendent of the Insurance Department, and shall not exceed the sum of five per cent. on the amount of all assets of such company as shall come into his possession. The receiver may employ such clerks and actuaries as may be deemed necessary for the proper conducting of his business as such receiver, and the said clerks and actuaries shall be paid such reasonable compensation as he may determine, subject, however, to the approval of the Superintendent of the Insurance Department; all of which compensation, to receiver, clerks and actuaries, shall be a charge on the funds of such company, and paid out of said funds. (*Ibid*, § 16.)

#### MISREPRESENTATION IN OBTAINING LIFE POLICIES.

**176.** No misrepresentation made in obtaining or securing a policy of insurance on the life or lives of any person or persons shall be deemed material, or render the policy void, unless the matter misrepresented shall have actually contributed to the contingency or event on which the policy is to become due and payable, and whether it so contributed in any case, shall be a question for the jury. (*Laws of 1874*, p. 89, § 1.)

**177.** In suits brought upon life policies, heretofore or hereafter issued, no defense based upon misrepresentation in obtaining or securing the same shall be valid, unless the defendant shall at or before the trial, deposit in court for the benefit of the plaintiffs, the premiums hereafter received on such policies with six per cent. interest per annum from the date of receipt. (*Ibid*, § 2.)

#### LIFE INSURANCE FOR THE BENEFIT OF MARRIED AND UNMARRIED WOMEN AND CHILDREN.

**178.** It shall be lawful for any married woman, by herself, and in her name, or in the name of any third person, with his assent as her trustee, to cause to be insured, for her sole use, the life of her husband, for any definite period, or for the term of his natural life; and in case of her surviving her husband, the sum or net amount of the insurance becoming due and payable by the terms of the insurance, shall be payable to her, and for her own use, free from the claims of the representatives of her husband, or of any of his creditors; but such exemptions shall not apply when the amount of premium annually paid shall exceed three hundred dollars. (*Wagner's Statutes*, 1870, p. 936, § 15.)



**179.** In case of the death of the wife before the decease of her husband, the amount of the insurance may be made payable, after her death, to her children, for their use, and to their guardian, if under age. (*Ibid*, § 16.)

**180.** It shall be lawful for any unmarried woman, by herself and in her own name, or in the name of any third person as her trustee, to cause to be insured, for her sole use, the life of her father or brother, for any definite period, or during his natural life; and, in case of her surviving such person, she shall be entitled to receive the amount of the net insurance, in the same manner as in cases of married women. (*Ibid*, § 17.)

**181.** Any policy of insurance heretofore or hereafter made by any insurance company on the life of any person expressed to be for the benefit of any married woman, whether the same be effected by herself or by her husband, or by any third person in her behalf, shall inure to her separate use and benefit, and that of her children, if any, independently of her husband, and of his creditors and representatives, and also independently of such third person effecting the same in her behalf, his creditors and representatives; and a trustee may be appointed by the Circuit Court for the county in which such married woman resides, to hold and manage the interest of any married woman in any such policy, or the proceeds thereof. (*Ibid*, § 18.)

#### TAXATION OF INSURANCE COMPANIES.

**182.** All agencies of foreign insurance companies doing fire, river or marine insurance, or any kind of insurance other than life insurance within this State, shall on or before the first day of February of each and every year, deposit with the Assessor of the county, and also of the city in which the office or agency of such company is located, a statement verified by the oath of the agent of the foreign company, specifying the gross amount (after deducting all return premiums and the amount of cash actually paid by said company for losses incurred in such county or city under its policies) of premiums received for insurance by such company or agent during the preceding year up to the first day of January immediately preceding such deposit of such statement, or for such fractional part of the year that such company or agency may have been doing business in this State. (*Wagner's Statutes*, 1870, p. 779, § 1, as amended by laws of 1874, p. 77, § 1.)

**183.** If any agent of any foreign insurance company shall neglect or refuse to deposit with the assessor aforesaid, on or before the first day of February, in each and every year, the verified statement required by the preceding section, it shall be the duty of the assessors, respectively, to assess on said company or agency, such a sum of gross premiums, as after diligent inquiry, he may ascertain to be the amount received. (*Ibid*, § 2.)

**184.** Such gross amount of premiums, so received as aforesaid, shall be subject in the county and city in which the office of such agency is located, to the levy and payment of such taxes, of every kind, as other property is subject to for State, county, and municipal purposes, which taxes shall be paid by such agent to the respective collectors, within the time required by law for the payment of the general taxes; *Provided*, That the tax so assessed on the gross amount of the premiums shall be in lieu of all taxes



formerly levied on the capital stock of any foreign insurance company, for State, county and municipal purposes, and that no other taxes of any kind than as is in this chapter specified shall be levied on such agencies for any purpose whatever. (*Ibid*, § 3.)

**185.** Upon the agent or agents of any foreign insurance company depositing with the assessor the verified statement required by this chapter, and complying with the other provisions thereof, the Clerk of the County Court of the county in which such agency is located, shall issue to him or them a license, in the name of the State, for carrying on the business of his or their agency for the space of one year, which license shall be renewed from year to year, by such clerk, if demanded; and for every such license such clerk shall be paid a fee of seventy-five cents. (*Ibid*, p. 780, § 4.)

**186.** The agent or agents of any foreign insurance company, doing fire, river, or marine insurance business in the city of St. Louis, in addition to the tax on gross premiums, as above provided for, against such companies, shall also pay to the collector of the ward in said city in which the office of said agent is located, on or before the first day of February of each and every year, the sum of one hundred dollars for the use of said city, which sum shall be considered in full for, and in room of, all taxes and licenses which said city may possess the power to impose on such agencies; and such collector shall, upon such payment being made, issue to such agent or agents a license, in the name of the city of St. Louis, for the carrying on the business of such agency for one year, which license shall be renewed from year to year if demanded, and shall not be subject to any other taxation of any kind whatever by said city. (*Ibid*, § 6.)

**187.** Any agent or agents of any such insurance company, who shall neglect or refuse to comply with the requirements of the last preceding section, shall forfeit and pay the sum of two hundred dollars, which may be sued for and recovered, in the name of the city of St. Louis, to the use of the same, by suit instituted by the city attorney, or by indictment, in any court having competent jurisdiction. (*Ibid*, p. 781, § 7.)

**188.** Any person or persons who shall, as agent of any insurance company not incorporated by the legislature of this State, or as the agent of any insurance agency doing business in this State, neglect to take out a license as aforesaid, or neglect or refuse to comply with any of the foregoing provisions obligatory upon such person or party, or who shall willfully make a false or fraudulent statement of the business or condition of his or their company, shall forfeit and pay the sum of five hundred dollars for each offense, and shall not do, directly or indirectly, and kind of insurance business until the requisitions of this chapter are faithfully complied with; and it shall be the duty of the Collector of the county in which the office of such agency is located, to prosecute for the recovery of any forfeitures incurred under this chapter; and any and all fines and forfeitures thus incurred may be recovered in the name of the State, to the use of the county and State, in equal proportions, by indictment, complaint, bill or information, in any court of competent jurisdiction. (*Ibid*, § 8.)

**189.** No insurance company organized under the laws of this State, or any other State or Territory of the United States, or of any foreign country, doing the business of insurance within this State, which shall hereafter fail, neglect or refuse to pay the license, or

State, county, city, town or school taxes, now required by the laws of this State, shall be permitted to transact the business of insurance within this State. (*Laws of 1873, p. 22, § 1.*)

**190.** The Superintendent of the Insurance Department of this State shall ascertain from the collectors of the revenue in the several counties and cities of this State, the names of all the insurance companies doing the business of insurance within this State, which have failed, neglected or refused to pay the licenses or taxes set forth in the next preceding section; and it shall be the duty of said collectors to furnish the Superintendent of the Insurance Department of this State, a certified list of names of all insurance companies, doing the business of insurance in their respective counties and cities, together with the amount of delinquent taxes due by each company, on or before the first day of June, 1873, and thereafter, on or before the fifteenth day of January in each year. (*Ibid, § 2.*)

**191.** Upon the receipt of the certified list of names as in the foregoing section set forth, the Superintendent of the Insurance Department is hereby required to revoke and withhold the certificate of said companies, or any of them, to transact business within this State, until said company or companies shall have presented to him the collector's receipts for all delinquent taxes or licenses, or duplicates thereof, stating that all of said delinquent taxes have been paid. (*Ibid, § 3.*)

#### ARSON AND INCENDIARISM.

**192.** Every person who shall willfully set fire to or burn any dwelling-house, in which there shall be at the time some human being, or who shall willfully set fire to or burn any boat or vessel, in which there shall be at the time some human being, or who shall willfully set fire to or burn any bridge or causeway upon any railroad, shall, upon conviction, be adjudged guilty of arson in the first degree. (*Wagner's Statutes, 1870, p. 453, § 1.*)

**193.** Every house, prison, jail, or other edifice, which shall have been usually occupied by persons lodging therein, shall be deemed a dwelling-house of any person having charge thereof, or so lodging therein; but no warehouse, barn, shed, or other out-house, shall be deemed a dwelling-house, or part of a dwelling-house, within the meaning of this or the last section, unless the same be joined to or immediately connected with and is part of a dwelling-house. (*Ibid, § 2.*)

**194.** Every person who shall willfully set fire to or burn any shop, warehouse, office, storehouse, or other building not being the subject of arson in the first degree, but adjoining to or within the curtilage of any inhabited dwelling-house, so that such dwelling-house shall be endangered by such firing, shall, upon conviction, be adjudged guilty of arson in the second degree. (*Ibid, § 3.*)

**195.** Every person who shall willfully set fire to or burn any building in which shall be kept or deposited at the time any public records, or the papers of any public officer, shall, on conviction, be adjudged guilty of arson in the second degree. (*Ibid, § 4.*)

**196.** Every person who shall willfully set fire to or burn any house, building, barn, stable, boat or vessel of another, or any office or depot of any railroad company, or any house of public worship, college, academy, or school-house, or building used as such, or any

public building belonging to the United States or this State, or to any county, city, town, or village, not the subject of arson in the first or second degree, shall, on conviction, be adjudged guilty of arson in the third degree. (*Ibid*, p. 454, § 5.)

**197.** Every person who shall willfully set fire to or burn any brewery, distillery, grist-mill, paper-mill, fulling-mill, saw-mill, carding machine, or other machinery for manufacturing purposes, or any building containing the same, or erected or used as a manufactory, shall, on conviction, be adjudged guilty of arson in the third degree. (*Ibid*, § 6.)

**198.** Every person who shall willfully set fire to or burn any building, boat or vessel, or any goods, wares, or merchandise, or other chattels, which shall at the time be insured against loss or damage by fire, with intent to defraud or prejudice the insurer, whether the same be the property of such person or any other, shall be, upon conviction, adjudged guilty of arson in the third degree. (*Ibid*, § 7.)

**199.** Every person who shall willfully set fire to or burn any goods, wares, merchandise, or other chattels of another, not the subject of arson in the third degree, or any stack of grain of any kind belonging to another, or any grain, grass, or herbage growing or standing in the field, or any nursery or orchard of fruit trees, or any fence or hedge belonging to another, or any bridge or causeway, not the subject of arson in the first degree, shall, on conviction, be adjudged guilty of arson in the fourth degree. (*Ibid*, § 8.)

**200.** Every person who shall be convicted of any degree of arson shall be punished, by imprisonment, as follows: First, In the first degree, in the penitentiary, not less than ten years; Second, In the second degree, in the penitentiary not less than seven years; Third, In the third degree, in the penitentiary not less than five years; Fourth, In the fourth degree, in the penitentiary not more than five years, or by imprisonment in the county jail not less than six months. (*Ibid*, § 9.)

## EMBEZZLEMENT.

**201.** If any agent, clerk, apprentice, servant, or collector of any private person, or of any copartnership (except persons so employed under the age of sixteen years), or if any officer, agent, clerk, servant, or collector of any incorporated company, or any person employed in any such capacity, shall embezzle or convert to his own use, or shall take, make way with, or secrete with intent to embezzle or convert to his own use, without the assent of his master or employer, any money, goods, rights in action, or valuable security or effects whatsoever, belonging to any other person, which shall have come into his possession or under his care by virtue of such employment or office, he shall, upon conviction, be punished in the manner prescribed by law for stealing property of the kind or value of the articles so embezzled, taken or secreted. (*Wagner's Statutes*, 1870, p. 458, § 35.)

**202.** For General Provisions relating to Corporations see *Wagner's Statutes*, 1870, pp. 289-295; *Laws of 1872*, pp. 17, 18.

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# INSURANCE STATUTES OF NEBRASKA.

*Revised by Hon. Jefferson B. Weston, Auditor of State.*

## CONSTITUTIONAL PROVISIONS CONCERNING CORPORATIONS.

1. The legislature shall not pass local or special laws granting to any corporation, association, or individual, any special or exclusive privileges, immunity or franchise whatever. (*Art. 3, § 15.*)

2. No corporation shall be created by special law, nor its charter extended, changed, or amended, except those for charitable, educational, penal, or reformatory purposes, which are to be and remain under the patronage and control of the State, but the legislature shall provide by general laws for the organization of all corporations hereafter to be created. All general laws passed pursuant to this section may be altered from time to time or repealed. (*Art. 11, Miscellaneous Corporations, § 1.*)

3. All corporations may sue and be sued in like cases as natural persons. (*Ibid, § 3.*)

4. In all cases of claims against corporations and joint stock associations, the exact amount justly due shall be first ascertained, and after the corporate property shall have been exhausted, the original subscribers thereof shall be individually liable to the extent of their unpaid subscription, and the liability for the unpaid subscription shall follow the stock. (*Ibid, § 4.*)

5. The legislature shall provide by law that in all elections for directors or managers of incorporated companies, every stockholder shall have the right to vote in person or by proxy for the number of shares of stock owned by him, for as many persons as there are directors or managers to be elected, or to cumulate said shares and give one candidate as many votes as the number of directors multiplied by the number of his shares of stock shall equal, or to distribute them upon the same principle among as many candidates as he shall think fit; and such directors or managers shall not be elected in any other manner. (*Ibid, § 5.*)

6. All existing charters or grants of special or exclusive privileges under which organization shall not have taken place, or which shall not be in operation within sixty days from the time this constitution takes effect [November 1, 1875], shall thereafter have no validity or effect whatever. (*Ibid, § 6.*)

## INSURANCE COMPANIES OTHER THAN LIFE.

7. Hereafter when any number of persons associate themselves together for the purpose of forming an insurance company, for any

other purpose than life insurance, under the provisions of chapter twenty-five of the revision of 1866, and all acts amendatory and supplementary thereto, they shall publish a notice of such intention once in each week, for four weeks, in some public newspaper in the county in which such insurance company is proposed to be located, and they shall also make a certificate under their hand, specifying the name assumed by such company and by which it shall be known, the object for which said company shall be formed, the amount of its capital stock, and the place where the principal office of said company shall be located, which certificate shall be acknowledged before and certified by some notary public or clerk of court of record and forwarded to the Auditor of State, who shall submit the same to the Attorney-General of State for examination, and if it shall be found by the Attorney-General of State to be in accordance with the provisions of this act, and not in conflict with the constitution and laws of the United States and this State, he shall make certificate of the facts, and return it to the Auditor of State, who shall reject the name or title applied for by any company when he shall deem the same too similar to any one already appropriated by any other company, or likely to mislead the public. (*General Statutes*, 1873, p. 429, § 1.)

8. When the said certificate of the said company shall have received the approval of the Attorney of State and Auditor of State, the said company shall cause the same to be recorded as now required by law for recording articles of incorporation; and said persons, when incorporated and having in all respects complied with the provisions of this act are hereby authorized to carry on the business of insurance, as named in such certificate of incorporation, and by the name and style provided therein, and shall be deemed a body corporate with succession, they and their associates, successors, and assigns, to have the same general corporate powers, and be subject to all the obligations and restrictions of said chapter twenty-five of revision of 1866, and of such acts as may be amendatory or supplementary, except as may be herein otherwise provided. (*Ibid*, § 2.)

9. No joint-stock company shall be incorporated under the provisions of this act, with a smaller capital than one hundred thousand dollars, nor more than one million dollars, as may be specified in the certificate of incorporation, which stock shall be divided into shares of one hundred dollars each, of which capital at least fifty per cent. shall be fully paid up in cash, and that for the remainder of its capital there are in its possession notes of its stockholders secured by at least one surety or by mortgages on unincumbered real estate, within this State, worth at least twice the amount of such notes, which notes or other security shall be approved by the State Auditor; nor shall any company on the plan of mutual insurance commence business in this State until agreements have been entered into for insurance with at least two hundred applicants, the premiums upon which shall amount to not less than twenty-five thousand dollars, of which at least five thousand dollars shall have been paid in actual cash, and for the remainder of which notes of solvent parties, founded upon actual and bona fide applications for insurance, shall have been received; no one of the notes received as aforesaid shall amount to more than five hundred dollars, and no two thereof shall be given for the same risk or made by the same person or firm, except when the whole amount of such

notes does not exceed the sum of five hundred dollars; nor shall any note be regarded or represented as capital stock, unless a policy be issued upon the same within thirty days after the organization of the company taking the same, upon a risk which shall be for no shorter period than twelve months; each of said notes shall be payable in whole or in part, at any time when the directors shall deem the same requisite for the payment of losses by fire or inland navigation, and such incidental expenses as may be necessary for transacting the business of said company; and no notes shall be accepted as part of such capital stock, unless the same shall be accompanied by a certificate of a justice of the peace, notary public, or Clerk of the District Court of the county in which the person executing such note shall reside, that the person making the same is, in his opinion, pecuniarily good and responsible for the same in property not exempt from execution by the laws of their State; and no such note shall be surrendered while the policy for which it was given continues in force. (*Ibid*, p. 430, § 3.)

**10.** Having published the notice and filed publisher's affidavit of the publication thereof with the Auditor of State, together with the certificate, as required by the first section of this act, the persons named in the certificate of incorporation, or a majority of them, shall be commissioned to open books for the subscription of stock to the company, at such times and places as to them may seem convenient and proper, and shall keep the same open until the full amount specified in the certificate is subscribed; or in case the business of such company is proposed to be conducted on the plan of mutual insurance, then open books to receive propositions and enter into agreement in the manner and to the extent specified in the third section of this act. (*Ibid*, p. 431, § 4.)

**11.** The affairs of any company organized under the provisions of this act shall be managed by not more than twenty-one nor fewer than five directors, all of whom shall be stockholders; within thirty days after the subscription books shall have been filled, a majority of the subscribers shall hold a meeting for the election of directors, each share entitling the holder thereof to one vote; and the directors there elected shall continue in office until their successors have been duly chosen and have accepted the trust. (*Ibid*, § 5.)

**12.** It shall be lawful for any insurance company organized under this act, or incorporated under any law of this State, to invest its capital and the funds accumulated in the course of its business, or any part thereof, in bonds and mortgages on unencumbered real estate, within the State of Nebraska, worth double the sum loaned thereon, exclusive of buildings, unless such buildings are insured in some responsible company or companies and the policy or policies transferred to said company, and also in stocks of this State or stocks or treasury notes of the United States, in the stocks and bonds of any county or incorporated city in this State, which may have been therefore authorized to be issued by the Legislature of this State, and to lend the same, or any part thereof, on the security of such stock, or lands, or treasury notes, or upon bonds and mortgages as aforesaid, and not otherwise; and to change and reinvest the same in like securities, as occasion may from time to time require; but any surplus money over and above the paid-up capital stock of any such company organized under this act or incorporated under any law of this State, may be invested in or loaned upon the pledge of public stocks of United States or any of the States, or stocks, bonds,



or other evidences of indebtedness of any solvent, dividend-paying institutions incorporated under the laws of this State or the United States, except their own stock ; *Provided, always*, That the current market value of such stock, bonds or other evidence of indebtedness shall be at all times during the continuances of such laws at least twenty per cent. more than the sum loaned thereon. (*Ibid*, § 6.)

**13.** Upon receiving notification that the requirements of the preceding sections have been complied with, the Auditor of State shall make an examination, or cause one to be made by some disinterested person officially appointed by him for that purpose, and if it shall be found (if the examination shall be made other than by the Auditor, then the finding shall be certified under oath) that the capital herein required by the company named, according to the nature of the business proposed to be transacted by such company, has been paid in and possessed by it in money, or in such stocks, notes, bonds, or mortgages, as are required by the third and sixth sections of this act, then he shall so certify ; and if the examination be made by other than the Auditor, then the finding shall be certified under oath ; or if it is proposed to be a mutual insurance company, that it has received and is in actual possession of the capital, premiums, or *bona fide* engagements of insurance, or the securities, as the case may be, to the extent and value required by the third and sixth sections of this act, the name and residence of the maker of each premium note forming part of the capital of any such proposed mutual insurance company, and the amount of such note, shall be returned to the Auditor. The corporators or officers of any such company or proposed company contemplated by this act, shall be required to certify, under oath, to the Auditors of State, that the capital exhibited to the person making the examination directed in this section, was *bona fide* property of the company so examined ; the certificates above contemplated shall be filed in the office of said Auditor, who shall thereupon deliver to such company a certified copy of the same, with his written permission for them to commence business as proposed in their written certificate of incorporation, which on being placed on record in the office of the Recorder of the county in which the company is to be located, by the Recorder, in a book prepared by him for that purpose, shall be their authority to commence business and issue policies ; and such certified copy of said certificate may be used in evidence for or against said company with the same effect as the originals. (*Ibid*, p. 432, § 7.)

**14.** It shall be lawful for any company organized under this act, or doing business in this State : 1st. To insure houses, buildings, and all other kinds of property against loss or damage by fire or other casualty, and to make all kind of insurance on goods, merchandise, or other property, in the course of transportation, whether on land or water, or any vessel afloat, wherever the same may be. 2d. To make insurance on the health of individuals, and against the personal injury, disablement, or death, resulting from traveling, or general accidents by land or water. 3d. To insure the fidelity of persons holding places of public or private trust. 4th. To receive on deposit and ensure the safe-keeping of books, papers, moneys, stocks, bonds, and all kinds of personal property. 5th. To insure horses, cattle, and other stock, against loss or damage by accident, theft, or any unknown or contingent event whatever which may be the subject of legal insurance ; to lend money on bottomry or *respondentia*, and to cause itself to be insured against any loss or risk it may

have incurred in the course of its business and upon the interest which it may have in any property by means of any loan or loans which it may have made on mortgage, bottomry, or *respondentia*; and generally to do and perform all other matters and things proper to promote these objects; *Provided*, That no company shall be organized to issue policies of insurance for more than one of the above five mentioned purposes; and no company that shall have been organized for either one of said purposes, shall issue policies of insurance for any other; and no company organized under this act, or transacting business in this State, shall expose itself to loss on any one risk or hazard to an amount exceeding ten per cent. of its paid up capital, unless the excess shall be insured by the same in some other good and reliable company; and *Provided*, That the restriction as to the amount of risk any company shall assume shall not apply to companies organized to guarantee the fidelity of persons in places of public or private trust, nor to companies that receive on deposit and guarantee the safe-keeping of books, papers, moneys, and other property. (*Ibid*, § 8.)

**15.** The annual meeting for the election of directors shall be holden during the month of January, as the by-laws of the company may direct; *Provided, however*, That if for any cause the stockholders shall fail to elect at any annual meeting, then they may hold a special meeting some day subsequent thereto for that purpose, by giving thirty days' notice thereof in some newspaper in general circulation in the county in which the principal office of the company shall be located; and the directors chosen at any such annual or special meeting shall continue in office until the next annual meeting, and until their successors duly elected shall have accepted. (*Ibid*, p. 433, § 9.)

**16.** The directors shall choose by ballot a president from their own number, and shall fill all vacancies, which shall arise in the board or in the presidency thereof, and the board of directors thus constituted, or a majority of them, when convened at the office of the company, shall be competent to exercise all the powers vested in them by this act. (*Ibid*, p. 434, § 10.)

**17.** The directors of any such company shall have power to appoint a secretary and any other officer or agent necessary for transacting the business of the company, paying such salaries and taking such securities as they may deem reasonable; they may ordain and establish such by-laws and regulations, not inconsistent with this act or with the constitution and laws of the United States and of this State, as shall appear to them necessary for regulating and conducting the business of the company; and it shall be their duty to keep full and correct entries of their transactions, which shall at all times be open to the inspection of the stockholders, and to the inspection of persons invested by law with the right thereof. (*Ibid*, § 11.)

**18.** All policies or contracts of insurance made or entered into by the company may be made either with or without the seal of said company; but said policies shall be subscribed by the president or such other officer as may be designated by the directors for that purpose, and shall be attested by the secretary thereof. (*Ibid*, § 12.)

**19.** Transfers of stock may be made by any stockholder or his legal representative, subject to such restrictions as the directors shall from time to time establish in their by-laws, except as hereinafter provided. (*Ibid*, § 13.)

**20.** Whenever any company organized under this act, with

less than the maximum capital limited in section three thereof, shall, in the opinion of the directors thereof, require an increased amount of capital, they shall, if authorized by the holders of a majority of the stock to do so, file with the Auditor of State a certificate setting forth the amount of such desired increase not exceeding said maximum, and thereafter such company shall be entitled to have the increased amount of capital fixed by said certificate; and the examination of securities composing the capital stock thus increased shall be made in the same manner as provided in section seven of this act, for the capital stock first paid in. (*Ibid*, § 14.)

**21.** It shall not be lawful for the directors, trustees, or managers of any insurance company organized under this act or incorporated under any law of this State, to make any dividend except from the surplus profit arising from their business, and in estimating such profits there shall be reserved therefrom a sum equal to forty per cent. of the amount received as premiums on unexpired risks and policies, which amount so reserved is hereby declared to be unearned premiums; and there shall also be reserved all sums due the corporation on bonds and mortgages, bonds, stocks, and book accounts of which no part of the principal or interest thereon has been paid during the year preceding such estimate of profits, and upon which suit for foreclosure or collections has not been commenced, or which, after judgment has been obtained thereon, shall have remained more than two years unsatisfied and upon which interest shall not have been paid; and in case of any such judgment, the interest due or accrued thereon and remaining unpaid shall also be reserved. Any dividends made contrary to these provisions shall subject the company making it to a forfeiture of their charter. (*Ibid*, § 15.)

**22.** No company organized under this act shall purchase, hold, or convey any real estate, save for the purpose and in the manner herein set forth, to wit: 1st. Such as shall be requisite for its convenient accommodation in the transaction of its business; 2d. Such as shall have been mortgaged to it in good faith by way of security for loans previously contracted or for money due; or, 3d. Such as shall have been conveyed to it in satisfaction of debts previously contracted in the legitimate business of the company or for money due; or 4th. Such as shall have been purchased at sales or upon judgments, decrees, or mortgages obtained or made for such debts. And it shall not be lawful for any such company to purchase, hold, or convey real estate in any other case, or for any other purpose, or acquired in any other manner, except that it may convey real estate which shall be found in the course of its business not necessary for its convenient accommodation in the transaction thereof; and all such last mentioned real estate shall be sold and conveyed within three years after the same shall have been deemed by the Auditor of State unnecessary for such accommodation, unless the company shall procure a certificate from the said Auditor that the interest of said company will materially suffer by a forced sale, in which event the sale may be postponed for such a period as the said Auditor shall direct in said certificate. (*Ibid*, p. 435, § 16.)

**23.** All notes deposited with any mutual insurance company, at the time of its organization as provided for in section three hereof, shall remain security for losses and claims, until the accumulation of the profits invested as required by the sixth section of this act, shall equal the amount of cash capital required to be possessed by



stock companies organized under this act, the liability of each note decreasing proportionately as the profits are accumulated; but any note which may have been deposited with any mutual insurance company, subsequent to its organization, in addition to the cash premiums, or any insurance effected with such company may, after the expiration of the time of such insurance, or upon the cancellation by the company of the policy, be relinquished and given up to the maker thereof, or his legal representatives, upon his paying his proportion of losses and expenses which may have accrued thereon during such term. The directors or trustees of any such company shall have the right to determine the amount of the note to be given, in addition to the cash premiums, by any person insured in such company; and every person effecting insurance in any mutual company, and also their heirs, executors, administrators, and assigns, continuing to be so insured, shall thereby become members of said company during the period of insurance, and shall be bound to pay for losses and such necessary expenses as aforesaid accruing to said company, in proportion to his or their deposit note or notes; *Provided*, That any person insured in any mutual company, except in the case of notes required by this act to be deposited at the time of its organization, may at any time return the policy for cancellation, and upon payment of the amount due at such time upon his premium note, shall be discharged from further liability thereon. (*Ibid*, § 17.)

**24.** The directors shall, as often as they deem necessary, after receiving notice of any loss or damage, settle and determine the sums to be paid by the several members thereof, as their respective portions of such loss, and publish the same in such manner as they shall deem proper or the by-laws shall have prescribed; but the sum to be paid by each member shall always be in proportion to the original amount of his deposit note or notes, and shall be paid to the officers of the company within thirty days after the publication of said notice; and if any member shall, for the space of thirty days after personal demand, or by letter, for payment shall have been made, neglect or refuse to pay the sum assessed upon him as proportion of any loss aforesaid, the directors may sue for and recover the whole amount of his deposit note or notes, with cost of suit; but execution shall issue for assessments and costs as they accrue only, and every such execution shall be accompanied by a list of losses for which such assessment was made; if the whole amount of deposit notes shall be insufficient to pay the loss occasioned, the sufferers insured by the said company shall receive, toward making good their respective losses, a proportionate share of the whole amount of said notes, according to the sums to them respectively insured; but no member shall ever be required to pay for any loss more than the whole amount of his deposit note or notes. (*Ibid*, p. 436, § 18.)

**25.** Every insurance company hereafter organized as provided in this act shall, if it be a mutual company, embody the word "mutual" in its title, which shall appear upon the first page of every policy and renewal receipt; and every company doing business as a cash stock company, shall, upon the face of its policies, express in some suitable manner that such policies were issued by stock companies. (*Ibid*, p. 437, § 19.)

**26.** It shall be the duty of the president or of the vice-president and secretary of each company organized under this act, or incorporated under any law of this State, or doing business in this State annually, on the first day of January of each year, or within thirty



days thereafter, to prepare under oath and deposit in the office of the Auditor of State, a full, true and complete statement of the condition of such company on the last day of the month preceding that in which such statement is filed, which last statement shall exhibit the following items and facts in the following forms, viz.:

*First.*—The amount of capital stock of the company.

*Second.*—The name of the officers.

*Third.*—The name of the company and where located.

*Fourth.*—The amount of capital stock paid up.

*Fifth.*—The property or assets held by the company, specifying the value as near as may be of the real estate owned by such company.

1. The amount of cash on hand and deposited in banks to the credit of the company, and in what bank the same is deposited.

2. The amount of cash in the hands of agents, and in course of transmission.

3. The amount of loans secured by first mortgages on real estate, with the rate of interest thereon, specifying the location of such real estate, and its assessed valuation.

4. The amount of all other bonds and loans, and how secured, with the rate of interest thereon.

5. The amount due the company on which judgments has been obtained.

6. The amount of stocks of this State, of the United States, of any incorporated city of this State, and of any other stock owned by the company, specifying the amount, numbers of shares, and par and market value of each kind of stock.

7. The amount of stock held by such company as collateral security for loans, with amount loaned on each kind of stock, its par and market value.

8. The amount of assessment on stock and premium notes paid and unpaid.

9. The amount of interest actually due and unpaid.

10. All other securities and their value.

11. The amount for which premium notes have been given, on which policies have been issued.

*Sixth.*—The liabilities of such company, specifying the losses adjusted and due.

1. Losses adjusted and not due.

2. Losses unadjusted.

3. Losses in suspense, and the causes thereof.

4. Losses resisted and in litigation.

5. Dividends either in scrip or cash, specifying the amount of each, declared, but not due.

6. Dividends declared and due.

7. The amount required to reinsure all outstanding risks on the basis of forty per cent. of the premium on all unexpired risks.

8. The amount due banks or other creditors.

9. The amount of money borrowed, and the security therefor.

10. All other claims against the company.

*Seventh.*—The income of the company during the previous year, specifying the amount received for premiums exclusive of premium notes; the amount of premium notes received; the amount received for interest; the amount received for assessment-calls on stock or

notes, or premium notes; the amount received from all other sources.

*Eighth.*—The expenditures during the preceding year, specifying the amount of losses paid during said term, stating how much of the same accrued prior, and how much subsequent to the date of the preceding statement, and the amount at which losses were estimated in such preceding statement.

1. The amount paid for dividends.

2. The amount paid commissions, salaries, expenses, and other charges of agents, clerks, and other employees.

3. The amount paid for salaries, fees, and other charges of office and directors.

4. The amount paid for local, State, national, internal revenue, and other taxes and duties.

5. The amount paid for all other expenses, expenditures, including printing, stationery, rents, furniture, etc.

*Ninth.*—The largest amount insured in any one risk.

*Tenth.*—The amount of risks written during the year then ending.

*Eleventh.*—The amount of risks in force having less than one year to run.

*Twelfth.*—The amount of risks in force having more than one, and not over three years, to run.

*Thirteenth.*—The amount of risks having more than three years to run.

*Fourteenth.*—The following question must be answered, viz.: "Are dividends declared on premiums received for risks not terminated?"

The Auditor of State shall withhold the certificate of authority from any such company neglecting or failing to comply with the provisions of this section. (*Ibid*, § 20.)

**27.** The Auditor of State is hereby authorized and empowered to address any inquiries to any insurance company in relation to its doings and condition, or any other matter connected with its transactions which he may deem necessary for the public good, or for a proper discharge of his duties; and it shall be the duty of any company so addressed to promptly reply in writing thereto. (*Ibid*, p. 439, § 21.)

**28.** The statement of any company, the capital of which is composed in whole or in part of notes, shall, in addition to the foregoing, exhibit the amount of notes originally forming the capital, and also what proportion of said notes are still held by such company and considered capital. (*Ibid*, § 22.)

**29.** It shall not be lawful for any insurance company, association, or partnership, organized or associated for any of the purposes specified in this act, incorporated by, or organized under the laws of any other State of the United States, or any foreign government, directly or indirectly, to take risks or transact any business of insurance in this State, unless possessed of two hundred thousand dollars of actual paid-up capital, exclusive of any assets of any such company as shall be deposited in any other States or Territories for the special benefit or security of the insured therein. And any such company desiring to transact any such business as aforesaid, by an agent or agents in this State, shall appoint one attorney in each county in which agencies are established, resident at the county seat, and shall file with the Auditor of State a written instrument

duly signed and sealed, authorizing such attorney of such company to acknowledge service of process for and in behalf of such company in this State, consenting that such service of process, mesne or final upon such attorney, shall be taken and held as valid as if served upon the company to the laws of this or any other State, and waiving all claim or right of error by reason of such acknowledgment or service, and also a certified copy of their charter or deed of settlement, together with a statement, under the oath of the president or vice-president, or other chief officer, and the secretary of the company for which they may act, stating the name of the company and the place where located, the amount of its capital, with a detailed statement of the facts and items as required from companies organized under the laws of this State, as per section twenty hereof. Such statement shall also show to the full satisfaction of the Auditor of State, that said company has deposited, in some one of the United States or Territories, a sum not less than twenty-five thousand dollars for the special benefit or security of the insured therein, and shall file also a copy of the last annual report, if any, made under any law of the State by which such company was incorporated; and no agent shall be allowed to transact business for any company whose capital is impaired by the liabilities, as stated in section twenty of this act, to the extent of twenty per cent. thereof, while such deficiency shall continue. (*Ibid*, § 23.)

**30.** It shall not be lawful for any agent or agents, or individual, to act for any insurance company or companies referred to in this act, directly or indirectly, in taking risks or transacting business of insurance in this State without procuring from the Auditor of State a certificate of authority, stating that such company has complied with all the requisitions of this act. (*Ibid*, p. 440, § 24.)

**31.** The statements and evidences of investments required of foreign companies as above shall be renewed annually in such manner and form as required by this act, and as said Auditor may direct, with any additional statement of the amount of the losses incurred or premiums received in this State during the preceding period, so long as such agency continues; and the said Auditor, on being satisfied that the capital, securities, and investments remain secure, as hereinbefore provided, shall furnish a renewal of his certificate as aforesaid. (*Ibid*, § 25.)

**32.** Every insurance company organized under the laws of or doing business in this State shall conform to all the provisions of this act applicable thereto on or before the first day of April, 1873; and when necessary, any existing company shall change its charter and by-laws, so as to conform thereto, by a vote of a majority of its board of directors, and any president, secretary, or other officer of any company organized under the laws of Nebraska, or any officer or person doing or attempting to do business in this State for any insurance company organized without this State, failing to comply with any of the requirements of this act, or violating any of the provisions thereof, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in a sum not exceeding one thousand dollars, and be imprisoned in the county jail for a period of not less than thirty days nor more than six months. (*Ibid*, § 26.)

**33.** Every agent of any insurance company shall, in all advertisements of such agency, publish the location of the company, giving the name of the city, town, or village in which the company is located, and the State or government under the laws of which it

is organized. The term "agent" or "agents" used in the foregoing sections shall include an acknowledged agent or surveyor, or any other person or persons who shall in any manner, directly or indirectly, transact or aid in transacting the insurance business of any insurance company not incorporated by the laws of this State. The provisions of the foregoing sections relative to foreign companies shall apply to all such companies, partnerships, associations, or individuals, whether incorporated or not; *Provided*, That none of the provisions of this clause shall be deemed operative in regard to insurance upon goods or merchandise in transit. (*Ibid*, p. 441, § 27.)

**34.** It shall be the duty of the Auditor of State, whenever he shall deem it expedient so to do, in his judgment, to appoint one or more persons, not officers, agents or stockholders of any insurance company doing business in this State, to examine into the affairs and condition of any insurance company incorporated or doing business in this State, or to make such examination himself; and it shall be the duty of the officers or agents of such company or companies, to cause their books to be opened for the inspection of the Auditor or the person or persons so appointed, and otherwise facilitate such examination so far as may be in their power so to do, and for the purpose of arriving at the truth, in such cases the Auditor, or person or persons so appointed by him, shall have power to examine, under oath, the officers or agents of any company or others if necessary, relative to the business and condition of said company; and whenever the Auditor shall deem it best for the interest of the public so to do, he shall publish the result of such investigation in one or more papers of this State; and whenever it shall appear to the said Auditor from such examination, that the assets and funds of any company incorporated in this State, are reduced or impaired by the liabilities of said company, as described under the head of liabilities in the statement required by this act, more than twenty per cent. below the paid up capital stock required by this act, he may direct the officers thereof to require the stockholders to pay in the amount of such deficiency within such a period as he may designate in such requisition; or he shall communicate the fact to the Attorney of State, whose duty it shall then become to apply to the district court; or if in vacation, to one of the judges thereof for an order requiring said company to show cause why their business should not be closed; and the court or judge, as the case may be, shall thereupon proceed to hear the allegations and proofs of the respective parties; and in case it shall appear to the satisfaction of said court or judge, that the assets and funds of said company are not sufficient as aforesaid, or that the interest of the public require it, the said court or judge shall decree a dissolution of said company, and a distribution of its effects; the said court or judge shall have power to refer the application of the Attorney of State to a referee, to enquire into and report upon the facts stated herein. (*Ibid*, § 28.)

**35.** Any company receiving the aforesaid requisition from the said Auditor, shall forthwith call upon its stockholders for such amounts as will make its paid up capital equal to the amount filed by this act, or the charter of said company; and in case any stockholder shall refuse or neglect to pay the amount so called for after notice personally given, or by advertisement, in such time and manner as said Auditor shall approve, it shall be lawful for the said company to require the return of the original certificate of stock held by such stockholder, and in lieu thereof, to issue new certificates for such



number of shares as the said stockholders may be entitled to, in the proportion that the ascertained value of the funds of the said company may be found to bear to the original capital of the said company, the value of such shares for which new certificates shall be issued to be ascertained under the direction of the said Auditor, the company paying for the fractional part of the shares. And it shall be lawful for the directors of such company to create new stock and dispose of the same, and to issue new certificates therefor; to an amount sufficient to make up the original capital of the company; and in the event of any additional losses accruing upon new risks taken upon the expiration of the period limited by the said Auditor in the aforesaid requisition for the filling up of the deficiency in the capital of such company; and before said deficiency shall have been made up, the directors shall be individually liable to the extent thereof. (*Ibid*, p. 442, § 29.)

**36.** If upon examination it shall appear to the said Auditor that the assets of any company chartered upon the plan of mutual insurance under this act, are insufficient to justify the continuance of such company in business, it shall be his duty to proceed in relation to such company in the same manner as is herein required in regard to joint-stock companies; and the trustees or directors of such company are hereby made personally liable for any losses which may be sustained upon risks taken after the expiration of the time limited by the said Auditor for filling up the deficiency in the capital, and before such deficiency shall be made up; any transfer of the stock of any company organized under this act, made during the pending of any investigation required above, shall not release the party making the transfer from his liability for losses which may have accrued previous to such transfer. (*Ibid*, § 30.)

**37.** The Auditor of State shall be authorized to examine into the condition and affairs of any insurance company as provided for in this act, doing business in this State, not organized under the laws of this State, or cause such examination to be made by some person or persons appointed by him having no interest in any insurance company; and whenever it shall appear to the satisfaction of said Auditor that the affairs of any such company are in an unsound condition, he shall revoke the certificate granted in behalf of such company, and shall cause the notification thereof to be published in some newspaper in general circulation published at the State capital; and the agent or agents of such company are, after such notice, requested to discontinue the issuing of any new policy, or the renewal of any previously issued. (*Ibid*, p. 443, § 31.)

**38.** There shall be paid by every company, association, person, or persons, agent or agents, to whom this act shall apply, the following fees: For filing and examination of the first application of any company, and issuing of the certificate of license thereon, fifty dollars, which shall go to the Auditor; for filing each annual statement herein required, twenty dollars; for each certificate authority, two dollars; for every copy of paper filed as herein provided, the sum of ten cents per folio, and fifty cents for certifying the same and affixing the seal of office thereto; all of which fees shall be paid to the officer required to perform the duties. (*Ibid*, § 32.)

**39.** Whenever the existing or future laws of any other State of the United States shall require of insurance companies incorporated by or organized under the laws of this State, having agencies in such other State, or of the agents thereof, any deposit of

securities in such State for the protection of policy-holders or otherwise, or any payment for taxes, fine, penalties, certificates of authority, license fees, or otherwise, greater than the amount required for such purposes from similar companies of other States by the then existing laws of this State, then, and in every such case, all companies of such States establishing or having theretofore established an agency or agencies in this State, shall be and are hereby required to make the same deposit for a like purpose with the Auditor of this State, and to pay said Auditor, for taxes, fines, penalties, certificates of authority, license fees, or otherwise, an amount equal to the amount of such charges and payments imposed upon or required, by the laws of such State, of the companies of this State or the agents thereof. (*Ibid*, § 32.)

**40.** It shall be the duty of every insurance company, of the kind provided in this act, doing business in this State, organized under the laws of this State or any other State or country, to publish once annually, in two newspapers of general circulation, one of which newspapers shall be published at the capital of the State (and in case of companies organized in the State of Nebraska, one of which shall be published in the county where the principal office is located), a certificate from the Auditor of State that such company has in all respects complied with the laws of this State relating to insurance. (*Ibid*, p. 444, § 34.)

**41.** The necessary expenditures for any examination made or ordered to be made by the Auditor of the State, under this act, shall be certified to by him and paid on his requisition by the company which is the subject of such examination; *Provided*, That the Auditor of State shall have the power, upon receiving information that the capital of any company is impaired, to call upon any such company for a full statement of its condition, and in event of refusal or neglect of any company to answer the requisition of the Auditor as aforesaid, he shall proceed to make the examination required by this act, and to take the necessary action to terminate the business of said company in this State. (*Ibid*, § 35.)

**42.** It shall be the duty of the Auditor of State to cause to be prepared and furnished to each of the companies organized under the laws of this State, and to attorneys or agents of companies incorporated by other States and foreign governments, who may apply for the same, printed forms of statements required by this act, and he may from time to time make such changes in the form of these statements as shall seem to him best adapted to elicit from the companies a true exhibit of their condition in respect to the several points hereintofore enumerated. (*Ibid*, § 36.)

**43.** It shall be the duty of the Auditor of State to cause the information contained in the statements required of the companies organized in this State, to be arranged in tabular form, and prepare the same in a single document for printing, and submit the same to the legislature, as a portion of his regular report to that body. (*Ibid*, § 37.)

**44.** Section nineteen of chapter forty-six of the Revision of 1866, and all acts and parts of acts amendatory thereto, in relation to taxing insurance companies in this State, are hereby repealed; and it is enacted in lieu thereof, the following, to wit: Each and every insurance company transacting business in this State, shall be taxed upon the excess of premiums received over losses and ordinary expenses incurred within the State during the year pre-

vious to the year listing in the county where the agent conducts the business, at the same rate that all other personal property is taxed, and the agent shall render the list and be personally liable for the tax; and if he refuses to render the list, or to make affidavit that the same is correct, the amount may be assessed according to the best knowledge and discretion of the assessor; and the county board of equalization may, at their discretion, add fifty per cent. to the amount returned by the assessor. Insurance companies shall be subject to no other taxation under the laws of this State, except taxes on real estate, and the fees imposed by section thirty-two of this act. (*Ibid*, § 38.)

**45.** It shall not be lawful for any company organized upon the mutual plan, to do business and take risks upon the stock plan, neither for a company organized as a stock company, to do business upon the plan of a Mutual Insurance Company. (*Ibid*, p. 445, § 39.)

**46.** Nothing in this act shall be so construed as to prevent any number of persons, not exceeding two hundred, from making mutual pledges and giving valid obligations to each other for their own insurance from loss by fire or death; but such association of persons shall in no case insure any property not owned and occupied by one of their number, and no life, except that of their own number; nor shall the provisions of this act be applicable to such associations or companies; *Provided*, Such associations or companies shall in no case pay any salaries or compensations to officers, agents or any other employees, and shall receive no premiums, nor make any dividends. (*Ibid*, § 40.)

**47.** That portion of chapter twenty-five, of the revision of 1866, which relates to insurance companies, and all acts and parts of acts amendatory and supplementary thereto, are hereby repealed, except so far as the same relates to the business of life insurance companies; and the Auditor of State is authorized to return the deposits made under section twelve, chapter twenty-five of the revision of 1866, when the companies making the same shall have complied with this act; *Provided*, Such deposits shall not be needed for the payment of losses due from the company having made the same. (*Ibid*, § 41.)

**48.** Insurance companies of every kind, transacting business in this State, shall be taxed in the same amount, and at the same rate that all other property is taxed, upon the amount of premiums taken by them during the year previous to the listing in the precinct; when the agent conducts the business of said company, the agent shall be personally liable for the taxes; and if he fail or refuse to render the list, or to swear to the same as herein required, the amount may be assessed according to the best knowledge and information of the assessor, and the county board of equalization may, at their discretion, add fifty per cent. returned by the assessor. Whenever any insurance company shall fail to render the list in this section provided, or shall fail or refuse to pay the taxes assessed and levied as herein provided, before the same become delinquent, it shall be unlawful thereafter for any such company to transact any insurance business in this State until such taxes shall have been paid; and every officer or agent of such company or persons who shall transact any business for such after it shall have failed or refused to pay the taxes assessed against it as above provided, while such taxes remain unpaid and delinquent, shall be deemed guilty

of a misdemeanor, and upon conviction thereof in the district court of the proper county, shall be fined, not to exceed five hundred dollars, and imprisoned in the county jail not exceeding six months. (*General Statutes*, 1873, p. 903, § 19.)

### LIFE INSURANCE COMPANIES.

**49.** It shall be the duty of each and every insurance company incorporated under the laws of the State, to file with the Auditor of the State a full and specific statement of the amount of cash paid in upon said stock; the amount of stock not paid for in cash; the amount secured by mortgages or pledges of real estate; the names and residences of the stockholders in said company, with the amount of stock owned or held, set opposite the name of each, and if not paid up in cash, the amount unsecured and the amount secured, specifying whether by real or personal security, also set opposite the name of each; the names of all the officers and agents of the company, wherever residing; the amount of policies issued by and outstanding against the company, at the date of said report; the amount of premiums received by said company, during the preceding six months; the amount of cash on hand; the amount of bills payable and receivable at the date of said statement; the amount of real estate owned by said company, where held and owned, and in what manner such real estate became vested in said company; which report and statement shall be verified by the oath of the president and secretary of the company. (*General Statutes*, 1873, p. 160, § 1.)

**50.** It shall be the duty of every insurance company now created, or that may hereafter be created under the laws of this State, to file a semi-annual statement of the affairs of said company, with the Auditor of the State, on the first day of January and July in each year, which statement shall be verified by the oath of the secretary of the company. Such statement shall contain:

*First.*—The name and locality of the company.

*Second.*—The amount of capital stock of said company.

*Third.*—The amount of its capital stock paid up.

*Fourth.*—The assets of the company, including—

1. The amount of cash on hand.

2. The amount of cash in hands of agents.

3. The real estate unincumbered.

4. The bonds and notes of the company, and how they are secured, with the rates of interest thereon, and whether given in payment of stock subscriptions, or for *bona fide* loans.

5. The debts of the company secured by mortgage.

6. Debts otherwise secured.

7. Debts for premiums.

8. All other securities.

*Fifth.*—The amount of liabilities due or not due to banks or other creditors by the company.

*Sixth.*—Losses adjusted and due.

*Seventh.*—Losses adjusted and not due.

*Eighth.*—Losses unadjusted.

*Ninth.*—Losses in suspense.

*Tenth.*—All other claims against the company.

*Eleventh.*—The greatest amount insured by any one risk.

And the Auditor shall cause a brief abstract of such statement



to be published in at least one newspaper at the capital of the State, and such company shall pay for said publication. (*Ibid*, § 2.)

**51.** A failure to comply with the provisions of the two preceding sections, shall subject the president and secretary of any company, each, individually, to the penalty of one hundred dollars, to be recovered in an action at law in the name of any citizen of the State, one-half of the same to the use of the State, and the other moiety to the use of the informer (*Ibid*, p. 161, § 3.)

**52.** It is declared unlawful for any insurance company in this State to purchase or hold any real estate, save what shall be necessary for the transaction of its legitimate business of insurance; and deeds and conveyances to said company, for any other purposes, are hereby declared to be void. (*Ibid*, § 4.)

**53.** It shall not be lawful for any agent or agents of any insurance company, incorporated by any other State or Territory, directly or indirectly, to take risks or transact any business of insurance in this State without first procuring a certificate from the Auditor of the State; and before obtaining such certificate, such agent or agents shall furnish the Auditor with a statement, under the oath of the president and secretary of the company for which he or they may act, which statement shall show:

*First.*—The name and locality of the company.

*Second.*—The amount of its capital stock.

*Third.*—The amount of its capital stock paid up.

*Fourth.*—The assets of the company, including—

1. The amount of cash on hand, and in the hands of agents and other persons.
2. The real estate unencumbered.
3. The lands owned by the company, and how they are secured, with the rate of interest thereon.
4. The debts of the company secured by mortgage.
5. Debts otherwise secured.
6. Debts for premiums.
7. All other securities.

*Fifth.*—The amount of liabilities due or not due to banks or other creditors by the company.

*Sixth.*—Losses adjusted and due.

*Seventh.*—Losses adjusted and not due.

*Eighth.*—Losses unadjusted.

*Ninth.*—Losses in suspense, waiting for further proof.

*Tenth.*—All other claims against the company.

*Eleventh.*—The greatest amount insured by any one risk.

*Twelfth.*—The greatest amount allowed by the rules of the company to be insured in any one city, town or village.

*Thirteenth.*—The greatest amount allowed to be insured in any one block.

*Fourteenth.*—The act of incorporation of such company.

Which statement shall be filed in the office of the said Auditor, together with a written instrument under the seal of the company signed by the president and secretary, authorizing such agent to acknowledge service, consenting that service of process upon such agent shall be taken and held to be as valid as if served upon the company, according to the laws of the State, or any State or Territory, and waiving all claims of error by reason of such service; and no insurance company, or agents of any insurance company, incorporated by any other State or Territory, shall transact any business

of insurance in this State, unless such company is possessed of at least one hundred thousand dollars of actual capital, invested in stocks of at least par value, or in bonds or mortgages on real estate worth double the amount for which the same is mortgaged; and upon filing the aforesaid statement and instrument with the Auditor of the State, and furnishing him with satisfactory evidence of such instrument, as aforesaid, it shall be the duty of said Auditor to issue a certificate thereof, with authority to transact business of insurance, to the agent or agents applying for the same; and the Auditor may demand and receive two dollars for every such certificate, to be paid by the company. (*Ibid*, § 5.)

**54.** It shall be unlawful for any incorporated company or association, partnership, firm or individual, or any member or agent, or agents thereof, or for any agent or agents of any company incorporated by any foreign government, other than a State of this Union, to transact any business of insurance in this State without procuring a certificate of authority from the Auditor of this State, such company, association, partnership, firm or individual, or any agent or agents thereof, having first filed, under oath, in the office of said Auditor, a statement, setting forth the charter or act of incorporation of any and every such incorporated company, and the by-laws, copartnership agreement and articles of association of any and every such incorporated company, association, partnership or firm; and the name and residence of such individual, and the names and residences of the members of every such partnership or firm; and the matters required to be specified by the provisions of this chapter and the written authority therein mentioned; and furnish evidence to the satisfaction of the Auditor of the State, that said company has invested in stocks of some one or more of the States of this Union, or of the United States, the amount of one hundred thousand dollars, and that such stocks are held by citizens of the United States, or in bonds or mortgages of real estate situated in the United States, fully securing the amount for which the same is mortgaged, or bonds of cities of the United States, the aggregate market value of the investment of the company in which shall not be less than one hundred thousand dollars; and such corporated company or unincorporated company, association, partnership, firm or individual, or any agent or agents thereof, filing said statement and furnishing evidence of investment as aforesaid, shall be entitled to a certificate of authority for such body or individual in like manner as is provided in this chapter. (*Ibid*, p. 163, § 6.)

**55.** The statement and evidences of investment required by this chapter, shall be renewed annually in the month of January of each year. The Auditor of State, upon being satisfied that the capital, securities and investments remain secure, shall furnish a renewal of certificates, as aforesaid; and the company, agent, or agents obtaining such certificates, shall file the same, together with the statement upon which it was obtained or renewed, in the office of the Auditor of the State. (*Ibid*, § 7.)

**56.** Any person or firm in this State who shall receive or receipt for any money on account of or for any contract of insurance made by him or them, or for any such insurance company or individual aforesaid, or who shall receive or receipt for money from other persons to be transmitted to any such company or individual aforesaid, for a policy or policies of insurance or any renewal thereof, although such policy or policies of insurance may not be signed

by him or them as agent or agents of such company, or who shall in any wise, directly or indirectly, make or cause to be made any contract or contracts of insurance, for or on account of such company aforesaid, shall be deemed, to all intents and purposes, an agent or agents of such company, and shall be subject and liable to all the provisions of this chapter. (*Ibid*, § 8.)

**57.** Copies of all papers required by this chapter to be deposited in the office of the Auditor of this State, certified under the hand of such Auditor to be true and correct copies of such papers, shall be received as evidence in all courts and places, in the same manner and have the same force and effect as the original would have if produced. (*Ibid*, p. 164, § 9.)

**58.** Any person or persons violating the provisions of this subdivision shall upon conviction thereof, in any court of competent jurisdiction, be fined in any sum not exceeding one thousand dollars, or imprisoned in the county jail not more than thirty days, or both, at the discretion of the court. Violations of the provisions of this subdivision may be prosecuted by information filed by the prosecuting attorney of the proper county, or by indictment of the grand jury. (*Ibid*, § 10.)

**59.** Any insurance company complying with the provisions of this subdivision, and securing the certificate of the Auditor for any of its agents, shall not be required to furnish the single statement, and evidences required thereby, for more than one of such agents, which being filed with the Auditor of this State, shall be deemed a sufficient compliance for its free transaction of business in this State. (*Ibid*, § 11.)

**60.** If any insurance company, firm or individual, or their agent or agents, having filed its or their statement as required by this subdivision, and conformed to the requirements thereof, shall have on deposit in any other State or Territory, or elsewhere than in this State, any portion of its capital or earnings as a guaranty fund for the exclusive benefit or security of persons insured in such State or Territory, or other place, it shall be the duty of the said Auditor of the State to withhold from such body or individual so alienating any such portion of their capital or resources, the certificates and authority in this subdivision provided for, until such body or individual shall file with the Auditor of the State, a statement, duly verified by the oath or affirmation of the president or secretary of such incorporated company, association, partnership or firm, or of such individual, showing the amount of premiums received in this State by such company during the year ending on the first of January next preceding the filing of said statement, and shall deposit in this State, in such manner as the Auditor of the State shall direct, five per cent. of the amount received in money, or any solvent State or United States stocks of at least par value, or mortgages on real estate situated in this State, of at least double the value for which the same is mortgaged; which statement and deposit shall be so made from year to year, at the time of each renewal or original grant of authority by said Auditor, until the sum of forty thousand dollars is deposited as aforesaid, which said sum and every yearly part deposited as aforesaid, shall be held under control of such Auditor of the State, as a guaranty fund for the benefit of such persons as may be in any manner insured in their property by such company in this State, and the same or any part of the sum so deposited, shall not be drawn out of the depositors,

until all claims for losses or premiums, or risks unexpired, shall be paid and discharged, or until all deposits made in other States, Territories, or other places not within this State shall be withdrawn; and in case of the insolvency of any such company, the sums so deposited as aforesaid shall be applied by the Auditor of State, pro tanto, towards the payment of all claims against such body or individual filed in his office, duly liquidated and authenticated, and losses and premiums or risks unpaid on policies issued within six months after such insolvency may occur. Any such body or individual shall be deemed insolvent, upon failure to pay any undisputed loss insured against within this State for the space of ninety days after final judgment for the amount of any loss so insured against, when no appeal shall have been taken from such judgment by either party, or other proceeding began, to vacate, modify, reverse or review such judgment, or to arrest the same, or to obtain a new trial. Such body or individual shall be entitled to receive the interest or dividends on such stocks so deposited from time to time as the same may become due. This section shall not apply to any of the aforesaid bodies or individuals who have made no such deposits, as in this section mentioned, elsewhere than in this State. (*Ibid*, § 12.)

**61.** Mutual insurance companies incorporated by any State or Territory other than the State of Nebraska, upon filing in the office of the Auditor the act of incorporation of said company, together with a written instrument under seal of said company, signed by the president and secretary of said company under oath, certifying that said company is possessed of a capital of at least one hundred thousand dollars, secured by lien on real estate, worth, at cash valuation, at least five times the amount of said capital, and not encumbered to more than one-fourth of said cash valuation, shall be entitled to a certificate from said auditor, with authority to transact business of insurance in this State, and said company shall be exempt from the provisions of this subdivision, with the exception of the publication of statement and certificate of the Auditor. (*Ibid*, p. 165, § 13.)

**62.** It shall be the duty of the agent or agents in either of the foregoing sections mentioned, before taking any risk or transacting any business of insurance in this State, to file in the office of the County Clerk of the county of which he or they may desire to establish an agency for any such company, a copy of the statement required to be filed with the Auditor of the State as aforesaid, together with a certificate of such Auditor, which shall be carefully preserved for public inspection by said clerk; and said statement and certificate shall be published one week in one daily, and four weeks in one weekly newspaper printed and published in the county in which such agent or agents has or have his or their office of business as such agent or agents; and if no daily paper is published in such county, then such publication shall be sufficient if made in one weekly newspaper as aforesaid; but if no weekly newspaper be printed or published in such county, then such publication shall be made in one weekly newspaper of this State of most general circulation in such county. (*Ibid*, p. 166, § 14.)

#### MUNICIPAL TAXATION OF INSURANCE COMPANIES.

**63.** The cities (of the second class) coming under the pro-



visions of this act, in their corporate capacities, are authorized and empowered to enact ordinances for the following purposes, in addition to the other powers granted by this act: To levy and collect a license tax on life or fire insurance companies or agencies. (*General Statutes*, 1873, p. 144, § 31, *par.* 4.)

### SUITS AGAINST INSURANCE COMPANIES.

**64.** When the defendant is an incorporated insurance company, and the action is brought in a county, in which there is an agency thereof, the service may be upon the chief officer of such agency. (*Ibid*, p. 535, § 74.)

**65.** When the defendant is a foreign corporation, having a managing agent in this State, the service may be upon such agent. (*Ibid*, § 75.)

### FRAUD AND FALSE SWEARING.

**66.** If any person or persons shall obtain, cause to be obtained, or attempt to obtain from any life or accident insurance company any sum of money, on any policy of life or accident insurance issued by any company in this State, by falsely or fraudulently representing the person or persons insured as dead, or shall cause any person or persons to be insured under an assumed name, and shall falsely represent the fictitious person or persons so insured as dead, and shall thereby obtain, cause to be obtained, or attempt to obtain from such company the amount of such insurance, and shall falsely obtain, cause to be obtained, or attempt to obtain from any such life or accident insurance company, any sum of money upon any life or accident policy of such company, by means of false and fraudulent written representation or affidavits, falsely representing that the person whose life was insured, was dead, or that the person insured against accident was injured, every person so offending, if the sum so obtained, attempted, or caused to be obtained, shall be equal to or exceed the sum of thirty-five dollars, shall be punished by imprisonment in the penitentiary, not exceeding fifteen years; and, if the sum so obtained, attempted or caused to be obtained, shall be less than thirty-five dollars, shall be fined in any sum not more than five hundred dollars, or be imprisoned in the jail of the proper county not exceeding six months, or both at the discretion of the court. (*Ibid*, p. 755, § 141.)

### ARSON AND INCENDIARISM.

**67.** If any person shall willfully and maliciously burn, or cause to be burned, any dwelling-house, kitchen, smoke-house, shop, barn, stable, storehouse, warehouse, malt-house, still-house, mill, or pottery, the property of any other person; or, any buildings, the property of any other person, of the value of fifty dollars, or containing property of the value of fifty dollars; or any church, meeting-house, court-house, work-house, school-house, jail, or other public building; or any ship, boat, or other water craft, of the value of fifty dollars, or any bridge of the value of fifty dollars, erected across any of the

waters within this State; every person so offending shall be deemed guilty of arson, and shall be imprisoned in the penitentiary not more than twenty years nor less than one year. (*Ibid*, p. 731, § 54.)

**68.** If any person shall willfully and maliciously set fire to any of the buildings or other property described in the foregoing section, with intent to burn or destroy the same; every person so offending shall be imprisoned in the penitentiary, and kept at hard labor, not more than seven years nor less than one year. (*Ibid*, § 55.)

**69.** Every person who shall willfully and maliciously burn, or cause to be burned, any dwelling-house, kitchen, smoke-house, shop, office, barn, stable, storehouse, warehouse, still-house, mill, pottery, or any other building of the value of fifty dollars; or any ship, boat, or other water-craft, of the value of fifty dollars; or any goods, wares, merchandise, or other chattels, of the value of fifty dollars, which shall be at the time the property of such person, and insured against loss or damage by fire, with intent to prejudice such insurer; every person so offending shall be deemed guilty of arson, and shall be imprisoned in the penitentiary not more than twenty years nor less than one year. (*Ibid*, p. 732, § 56.)

**70.** If any person shall willfully and maliciously set fire to any of the buildings, water-craft, or other property described in the foregoing section, and which shall be at the time the property of such person, and insured against loss or damage by fire, with intent to burn or destroy the same, and with intent to prejudice such insurer; every person so offending shall be imprisoned in the penitentiary not more than seven years nor less than one year. (*Ibid*, § 57.)

**71.** If any person shall willfully, maliciously, and unlawfully attempt to burn, or cause to be burned, any dwelling-house, kitchen, smoke-house, shop, barn, stable, storehouse, warehouse, malt-house, still-house, mill, or pottery, the property of any other person, of the value of fifty dollars; or any church, meeting-house, court-house, work-house, school-house, jail, or other public building; or any ship, boat, or other water-craft, of the value of fifty dollars; or any bridge of the value of fifty dollars, erected across any of the waters within this State; or if any person shall willfully, maliciously, or unlawfully attempt to set fire to any of the buildings or other property described herein, with intent to burn or destroy the same, by igniting or trying to set fire to or ignite the same, or any material or thing therein, or any combustible material or thing without the same and nearly adjoining thereto, though the same, or part thereof, be not fired or burned; every person so offending shall be fined in any sum not exceeding three hundred dollars, or imprisonment in the county jail for a term not exceeding four months, or both, at the discretion of the court. (*Ibid*, § 58.)

**72.** If any person shall willfully or maliciously set fire to, or burn, or cause to be burned, any barrack or stack of hay, wheat, rye, oats, barley, flax, hemp, or fodder, or grain of any kind; or any corn-crib, or place wherein corn may be deposited; or any fence, boards, plank, scantling, rails, tan-bark, or timber, the property of another, and of the value of thirty-five dollars or upwards; every person so offending shall be imprisoned in the penitentiary not more than three years nor less than one year. (*Ibid*, p. 733, § 60.)

## EMBEZZLEMENT.

**73.** If any clerk, agent, or servant of any private person, or of any co-partnership (except apprentices and persons within the age of eighteen years), or if any officer, agent, clerk, or servant of any incorporated company, or joint stock company, shall embezzle or convert to his own use, or fraudulently take or make away with, or secrete with intent to embezzle, or fraudulently convert to his own use, without the assent of his or her employer or employers, or the owner or owners thereof, any money, goods, rights in action, or other valuable security or effects whatever belonging to any other person or persons, body politic or corporate, which shall come into his or her possession or care by virtue of such employment; every such person so offending shall be punished in the manner prescribed by law for feloniously stealing property of the value of the articles so embezzled, taken or secreted, or of the value of any sum of money payable or due upon any right in action so embezzled. Every embezzlement of any evidence of debt negotiable by delivery only, and actually executed by the master or employer of any such clerk, agent, officer, or servant, but not delivered or issued as a valid instrument, shall be deemed an offense within the meaning of this section. (*Ibid*, p. 748, § 121, as amended by laws of 1875, p. 26, § 2.)

**74.** For General Provisions relating to Corporations, see General Statutes, 1873, pp. 178-182.

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# INSURANCE STATUTES OF NEVADA.

*Revised by Hon. W. W. Hobart, Controller.*

## CONSTITUTIONAL PROVISIONS CONCERNING CORPORATIONS.

**1.** The legislature shall pass no special act in any manner relating to corporate powers, except for municipal purposes; but corporations may be formed under general laws; and all such laws may, from time to time, be altered or repealed. (*Art. 8, § 1.*)

**2.** All real property and possessory rights to the same, as well as personal property in this State, belonging to corporations now existing or hereafter created, shall be subject to taxation the same as property of individuals; *Provided*, That the property of corporations formed for municipal, charitable, religious, or educational purposes may be exempted by law. (*Ibid, § 2.*)

**3.** Dues from corporations shall be secured by such means as may be prescribed by law; *Provided*, That corporators in corporations formed under the laws of this State shall not be individually liable for the debts or liabilities of such corporations. (*Ibid, § 3.*)

**4.** Corporations may sue and be sued in all courts, in like manner as individuals. (*Ibid, § 5.*)

## FOREIGN INSURANCE COMPANIES.

**5.** From and after the passage of this act, it shall be unlawful for any person or firm, officer or agent, to collect premiums of insurance in this State, in any manner, or in any capacity whatsoever, on either life, fire, or inland risks, for or on account of any company, association, or individual insurer, not incorporated under the laws of this State, unless such person or firm, officer or agent, shall have first filed with the Controller of State the following described documents:

*First.*—A certified copy of the power of attorney, certificate of agency, open policy, commission, or other authority or agreement under which such person, firm, officer or agent, shall claim to be authorized to collect premiums of insurance in this State.

*Second.*—A good and sufficient bond, to be signed by the person or firm, officer or agent, so authorized by the power of attorney, or other authority as aforesaid, as principal, with two good and sufficient sureties, to be approved by the Controller, in the penal sum of two thousand dollars, for each fire insurance company, or one thousand dollars for each life insurance company, or three thousand dollars for each inland insurance company, association, firm, or individual not incorporated under the laws of this State, for whose account

it is proposed to collect premiums of insurance in this State; the conditions of such bonds to be as follows, viz.: First, That the person or firm, agent or officer, named therein, acting on behalf of the company, association, firm, or individual, named therein, will pay to the Treasurer of the county, or city and county, in which the principal office of the agency shall be located, such sum per quarter, quarterly in advance, for a license to transact an insurance business, or such other license or licenses as are or may be imposed by law so long as the agency shall remain in the hands of the person or firm, officer or agent, named as principal in the bond. Second, That the person or firm, officer or agent, so specified as above, will pay or cause to be paid to the State, all stamp duties on gross amounts insured by them, in such manner and at such times as may be prescribed by law, inclusive of renewals on existing policies. Third, That within thirty days after the first day of June, in the year of our Lord one thousand eight hundred and seventy-three, and within thirty days after the first of June in each succeeding year, the agent or officer named in the bond shall render to the Treasurer of the county, or city and county, in which the principal office of the agency shall be located, a statement sworn to by him, and exhibiting the gross amounts of premiums collected by the agency, inclusive of the amounts collected by sub-agents throughout the State, for each company or association, firm or individual insurer represented by him or them respectively, from which shall be deducted the gross amount of return premiums. The first statement shall exhibit the amounts so collected between the first day of February and the first day of June, in the year of our Lord one thousand eight hundred and seventy-three, and subsequent statements shall exhibit the amounts so collected during the year terminating on the first day of June in each year respectively, and that on filing the statements as herein required, the agent or agents or officer named in the bond shall pay to the Treasurer of the county, or city and county aforesaid a tax of two per cent. on the amount of gross premiums, after deducting return premiums as set forth in his statement, and collected from fire and inland risks, and a tax of one per cent. on the amount of the premiums collected from life risks. And for the purposes of this act, all premiums shall be deemed to have been collected which have been entered upon the books of the agency. (*Laws of 1873, p. 46, § 1.*)

6. For the purposes of this act, all persons, firms, and officers of companies and associations, not incorporated under the laws of this State, and engaged in collecting premiums of insurance, directly or indirectly, on fire, life, or inland risks, shall be deemed to be agents of foreign insurance companies, and liable to all the provisions of this Act; and all express companies not so incorporated, as aforesaid, engaged in the carriage of treasure or merchandise from and within this State, and insuring the same, whether themselves assuming the risks, or whether the risks be reinsured by companies or associations not chartered by this State, shall be deemed foreign insurers within the meaning of this act, and shall be required to file with the Controller a separate bond for each express company taking risks as aforesaid, and for each foreign company or association reinsuring them on such risks. (*Ibid, p. 47, § 2.*)

7. Every person or firm who shall effect, agree to effect, or procure any insurance for citizens of this State, from or on account of any insurers or insurance companies whatever, not incorporated

under the laws of this State, from and after the passage of this act, without first having executed and filed the bond required in section one of this act, shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be fined in the sum of two thousand dollars for each company or association on whose account such insurance shall have been effected, one half of such fine to be for the use of the State, and one half for the benefit of the informer. But nothing herein contained shall apply to the sub-agents or employees of any principal agent who shall have complied with the requirements of this act. (*Ibid*, p. 48, § 3.)

8. A copy of the bond herein required to be filed with the Controller, certified by that officer, shall be filed with the Treasurer of the county, or city and county, where the principal office of the agency shall be located, before any license shall be issued to any agent for the transaction of insurance business, and shall remain on file in the office of the County Treasurer until he is notified in writing, by the Controller, of the termination of the agency and cancellation of the bond. (*Ibid*, § 4.)

9. Whenever the same person, firm, officer, or agent shall desire to collect premiums of insurance for more than one company, association, or individual, not incorporated under the laws of this State, the Controller shall require a separate bond, as provided in section one, for each company or association so represented by such person, firm, officer, or agent. (*Ibid*, § 5.)

10. If any agent or officer of a foreign insurance company, as defined in section two of this act, shall make any false statement, concealment, or misrepresentation in the sworn statement required by section one of this act, with the intent to defraud the State of revenue, he shall be deemed guilty of perjury, and shall be liable, on conviction thereof, to the pains and penalties as provided by law for the punishment thereof. All penalties imposed by this act shall be collected in the name of the people of this State, by the prosecuting attorney of the county, or city and county, where the offense shall have been committed. (*Ibid*, § 6.)

11. Said companies and associations shall duly execute, acknowledge and deliver, and cause to be duly recorded in the office of the Controller of State, a good and sufficient power of attorney, to some person who shall be a citizen of the United States and a citizen and resident of the State of Nevada, which power, so long as such company shall have outstanding policies of insurance in said State, shall be irrevocable, except by substitution of other person or persons qualified as aforesaid, authorizing and empowering such attorney or attorneys to accept service of all writs and processes requisite and necessary to the complete acquisition of jurisdiction of such company by any of the courts of this State, or United States courts therein, and constituting such attorney or attorneys the authorized agent or agents of such company, upon whom lawful and valid service of all writs and process may be made, in all actions or special proceedings instituted by or against any such company, in any of the courts of this State, or in any Federal court within this State, and which shall be necessary to the acquisition or complete exercise of the jurisdiction aforesaid of said courts. (*Ibid*, § 7.)

12. There shall be levied upon and collected from each person, firm, officer, or agent collecting premiums of insurance in this State, or in any manner or in any capacity whatsoever, on either fire, life, inland risks, for or on account of any company, associ-

ation, corporation, or individual, a license tax of twenty-five dollars per quarter year, payable quarterly in advance, to such officer as may be appointed under the revenue laws of this State. Such collector shall account for and pay over the same at the time and in the manner that may be provided by law for the payment of other State and county licenses; the Treasurer of the county, or city and county, shall pay into the State treasury all moneys collected under the provisions of this act, at the same time and in the same manner as other moneys belonging to this State may be required to be paid; but nothing contained in this act shall be construed to apply to sub-agencies reporting to and under control of the agent at the city, or city and county, where the principal office of the agency shall be located, and all requirements of this act shall be complied with by the principal agents as aforesaid, who shall be deemed the agent for that purpose. (*Ibid*, p. 49, § 8.)

**13.** Every willful violation of the provisions of this act shall be deemed a misdemeanor, and subject the party violating to a penalty of five hundred dollars for each violation, which shall be sued for and recovered in the name of the State of Nevada, by the District Attorney of the county in which the company or the agent or agents so violating shall be situated; and the said penalty, when recovered, shall be paid into the treasury of said county. In case of non-payment of such penalty, the party offending shall be liable to imprisonment for a period not exceeding six months, in the discretion of any court having the jurisdiction thereof. (*Ibid*, § 9.)

#### ARSON AND INCENDIARISM.

**14.** Every person who shall willfully and maliciously burn, or cause to be burned, in the night time, any dwelling-house in which there shall be at the time some human being, shall be deemed guilty of arson in the first degree, and upon conviction thereof, shall be punished by imprisonment, not less than two years, and which may extend to life, in the State prison. (*Compiled Laws*, 1873, p. 568, § 56.)

**15.** Every person who shall willfully and maliciously burn, or cause to be burned, any dwelling-house or building owned by himself, or the property of another, in the day time, or in the night or day time, willfully burn, or cause to be burned, any kitchen, office, shop, barn, stable, store-house, warehouse, or other building, or stacks, or stocks of grain, or standing crops, the property of any other person or corporation, or any church, meeting-house, school-house, state-house, court-house, or other public building, or any ship, vessel, boat, or other water-craft, or any bridge of the value of fifty dollars or more, erected across any of the waters of this State, such person so offending shall be deemed guilty of arson in the second degree, and, upon conviction thereof, shall be punished by imprisonment in the State prison, for a term not less than one year nor more than ten years; and should the life or lives of any person or persons be lost in consequence of such burning, as mentioned in this and the preceding section, such offender shall be deemed guilty of murder, and shall be indicted and punished accordingly. (*Ibid*, § 57.)

**16.** Every person who shall willfully burn, or cause to be burned, any building, or any goods, wares, merchandise, or other



chattel, which shall be at the time insured against loss or damage by fire, with intent to injure or defraud such insurer, whether the same be the property of such person, or of any other, shall, upon conviction, be adjudged guilty of arson in the second degree, and punished accordingly. (*Ibid*, § 58.)

### EMBEZZLEMENT.

**17.** If any clerk, apprentice, or servant, or other person, whether bound or hired, to whom any money, or goods, or chattels, or other property, shall be intrusted by his master or employer, shall withdraw himself from his master or employer, and go away with the said money, goods, chattels, or property, or any part thereof, with the intent to steal the same, and defraud his master or employer thereof, contrary to the trust or confidence in him reposed by his said master or employer, or being in the service of his said master or employer, shall embezzle the said moneys, goods, chattels, or property, or any part thereof, or otherwise shall convert the same to his own use, with like purpose to steal the same, every such person so offending shall be punished in the manner prescribed by law, for feloniously stealing property of the value of the articles so taken, embezzled, or converted. (*Ibid*, p. 571, § 74.)

**18.** For General Provisions relating to Corporations, see Compiled Laws, 1873, pp. 272-281; Laws of 1875, pp. 68, 69.

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# INSURANCE STATUTES OF NEW HAMPSHIRE.

*Revised by Hon. Oliver Pillsbury, Insurance Commissioner.*

## INSURANCE COMMISSIONER.

**1.** One Insurance Commissioner shall be appointed by the Governor and Council, who shall hold office for three years, and until another is appointed and qualified in his stead ; but he may be removed at pleasure by the Governor and Council, and his duties shall be the same as those of Insurance Commissioners under existing laws. (*General Statutes, 1867, p. 323, § 1, as amended by laws of 1869, p. 275, § 1.*)

**2.** No director, agent, or other officer of any insurance company, or person who has been such within one year, shall be so appointed. (*Ibid, § 2.*)

**3.** Such Commissioner, on or before the twentieth day of May, annually, shall file in the office of the Secretary of State his report, showing the amount of capital stock and premium notes of each company by him examined, the amount of property at risk, the amount of losses in the two preceding years, the sums assessed, the amount of indebtedness for money borrowed, and for losses unpaid, the salaries and emoluments of the president, secretary, treasurer, and each director, and the whole amount each person holding office therein has received or is to receive for his services for the year ; the expenses of adjusting losses, the sums paid or allowed for travel and *per diem* to officers and agents while attending thereto, the sums paid agents for each application taken by the company, the rate per cent. and the aggregate amount allowed agents for collecting assessments, the amount of each of the two last assessments laid, and the amount collected on each, and any other facts calculated to give the public full and satisfactory information of the condition and management of such company. (*Ibid, § 4.*)

**4.** The Insurance Commissioner shall annually include in his report an abstract of the annual statements made to him by insurance companies established out of the State, but doing business in this State by an agent or agents residing here ; and may examine into the business transacted in this State by any such agent, and require him to produce all books and papers within his control relating to the business of such agency, and the affairs, condition, and management of such company, and to answer in writing, under oath, all reasonable questions relative thereto, and especially in relation to the business transacted by said company in this State. (*Ibid, p. 324, § 5.*)

**5.** The Commissioner shall receive from each company examined by him, and from each agent so examined, ten cents a mile each way for his actual travel to make such examination, and three dollars for each day necessarily spent in making such examination and



report; but if more than one company or agency is examined at the same time in one town he shall not tax more than one travel, or more than his actual travel from one place of examination to another. (*Ibid*, § 6.)

6. If the Commissioner, upon such examination or otherwise, becomes satisfied it is unsafe for the public that any company shall continue its business, or if the officers or agents of any company shall not permit a full examination of its affairs, or shall not furnish the necessary facilities therefor, he shall immediately present the facts in writing to some Justice of the Supreme Court, who shall forthwith issue an injunction prohibiting said company from issuing any policy; and said Commissioner shall cause the same to be duly served. (*Ibid*, § 7.)

7. After notice and a hearing, said Justice may dissolve, modify, or continue such injunction, and make further orders and decrees as the circumstances of the case and the protection of the public may render proper. (*Ibid*, § 8.)

8. Whenever the Insurance Commissioner of this State shall attend the annual session of the National Insurance Convention of the United States, composed of the insurance officials of the several States, his traveling fare and hotel expenses, not exceeding the sum of two hundred dollars annually, properly itemized and duly audited by the Governor and Council, shall be paid out of any money in the Treasury not otherwise appropriated. (*Laws of 1872, chap. 78.*)

## INSURANCE COMPANIES AND AGENCIES.

9. No joint stock insurance company not organized under the laws of this State, shall be permitted or allowed to transact the business of such company in this State, unless it shall have a *bona fide* paid up capital, invested in securities readily convertible into cash of at least one hundred thousand dollars, nor unless such company shall have, in addition to such capital, assets equal in amount to all its outstanding liabilities, reckoning fifty per cent. of premiums on outstanding fire risks, the whole amount of premium on marine risks, and the premium reserve on life risks, based on the Actuaries' Table of Mortality, with interest at four per cent. as a liability; *Provided*, That the Insurance Commissioner may, at his discretion, license any company to do business in this State whose impairment of capital does not exceed twenty per cent. on the above rule; nor shall any mutual fire or life insurance company, or co-operative insurance company, association or society, not organized under the laws of this State, be permitted or allowed to transact the business of such company in this State, unless it possesses assets amounting to one hundred thousand dollars, invested in securities readily convertible into cash, nor unless it possesses such assets equal to all its outstanding liabilities (including reinsurance, to be estimated as in the case of joint stock insurance companies above-named, and including the amount of guaranty capital as a liability); nor until all the laws relating to insurance companies of other States, enacted by this State, shall have been complied with. (*Laws of 1870, chap. 1, § 1.*)

10. Every such insurance company shall, before doing business in this State, on and after the first day of September, eighteen hundred and seventy, appoint in writing a citizen thereof, resident

therein, naming the place of such residence, an attorney, upon whom all legal processes against such company may be served, with like effect as if the company existed in this State; and said writing or power of attorney shall stipulate and agree, on the part of the company making the same, that any legal process against such company, served on said attorney, shall be of the same force and validity as if served on said company. Said appointment, or a copy thereof, duly certified and authenticated, together with the acceptance of the appointment by such attorney, shall be filed in the office of the Insurance Commissioner, and copies certified by him shall in all cases be competent evidence. This appointment shall be continued so long as the company making the same shall transact any business in this State, and while any liability against such company shall remain in this State, and shall not be revoked until the same power is conferred upon another, and a like copy filed, as aforesaid. Service upon such attorney shall in all cases be deemed sufficient service upon the principal. (*Ibid*, § 2, *as amended by laws of 1872, chap. 37, § 1.*)

**11.** It shall not be lawful for any insurance company named in section one to transact any insurance business in this State on and after the first day of September, eighteen hundred and seventy, unless such company shall first obtain license of the Insurance Commissioner, authorizing the company so to do. Before receiving such license, the company shall file with the insurance commissioner a certified copy of its charter and by-laws, and a full statement, under oath, of its president and secretary, showing the financial condition and standing of the company, in accordance with blanks furnished by him, except in cases where the company have already filed such annual statement. Upon receiving such copies and statement, if the Commissioner is satisfied with the same, and that the company meets the requirements of section one, and has complied with the requirements of section two, of this act, he shall grant such license, authorizing such company to do insurance business by authorized agents, subject to the laws of this State, until the first day of April thereafter; and annually thereafter, on the first day of April, such license may be renewed, so long as such company shall comply with the requirements aforesaid, and the Commissioner shall regard the company as safe, reliable, and entitled to public confidence. For each license and renewal, as above, the company shall pay to the Insurance Commissioner the sum of five dollars. (*Ibid*, § 3.)

**12.** No person shall act as an agent of any insurance company aforesaid, not organized under the laws of this State, on and after the first day of September, eighteen hundred and seventy, until he shall have filed with the Insurance Commissioner, a certificate from the company, or its authorized general agent, authorizing him to act as such agent, and obtained license thereon from him so to do, for each company for which he proposes to act. Upon filing the certificate aforesaid, the Commissioner shall issue a license to such person to act as an insurance agent in this State, provided the company for which such person proposes to procure or solicit applications for insurance therein, shall be authorized to do insurance business in this State; which license shall continue until the first day of April thereafter, unless for cause revoked in the meantime. And, upon filing a certificate as aforesaid, such license may be renewed on the said first day of April, and annually thereafter, and

for such license, and each subsequent renewal, the person receiving the same shall pay to the Commissioner the sum of one dollar. If any person shall solicit or receive any risk or application for insurance, or receive money or value therefor, for any insurance company or agent, without such license from the Commissioner, he shall be punished for each offense by fine not exceeding one hundred dollars, one-half to the use of the prosecutor. But any policy issued on an application thus procured, shall bind the company, if otherwise valid; *Provided*, however, That this section shall not apply to any person who only acts as clerk to any insurance company or agent. (*Ibid*, § 4.)

**13.** The Insurance Commissioner shall be authorized, at any time, to examine into the condition and affairs of any insurance company not organized under the laws of this State, doing business or proposing to do business therein, or cause such examination to be made by some person appointed by him, not interested in such company, and may, in like manner, examine into the business transacted by any agent of such company in this State, and may require such company or agent to produce all books and papers relating to such company or agency, and to answer in writing, under oath, all reasonable questions relating thereto; and if, in his opinion, the affairs of such company are in an unsound or failing condition, he shall revoke any license that may have been granted to such company, and all licenses that may have been granted to agents of such company, by written notice to the company, and publication of same in one newspaper in Concord and Manchester, each having the largest circulation in the State, from those places. (*Ibid*, § 5.)

**14.** Every insurance company not organized under the laws of this State, and doing business therein, shall on or before the first day of March, in each year, transmit to the Insurance Commissioner a statement, under oath, of its president and secretary, of the whole amount of premiums received in money, or in the form of notes, credits, loans, or any other substitute for money, by or on account of said company, during the year ending on the thirty-first day of the preceding December, for any insurance made by it on persons or property in this State, also exhibiting its assets, liabilities, amount of capital stock actually paid in, the amount of outstanding risks, and the business standing, and affairs of the company generally, in accordance with blanks to be furnished by the Commissioner, adapted to the business of such company, and shall pay to the Commissioner, upon filing such statement, the sum of five dollars. And for the purpose of the above statement, the Commissioner shall prepare suitable blanks, proposing such interrogatories as may be necessary to ascertain the business standing and affairs of such company, and forward duplicates of the same in the month of December, in each year, to every such company; and the Commissioner may demand a like statement of its standing and affairs at any other time when, in his opinion, the same may be necessary for the safety of the public. (*Ibid*, § 6.)

**15.** The Insurance Commissioner shall, on or before the first day of April, in each year, assess a tax against every insurance company aforesaid, of one per cent. on the whole amount of premiums received in money, or in the form of notes, credits, loans, or any other substitute for money, by or on account of said company, during the year ending on the thirty-first day of the preced-



ing December, for any insurance made by it on persons or property in this State, during said year, and shall give notice of said assessment, and the amount of said tax, to the president, secretary or treasurer of every such company, by mail or otherwise, and shall file a list of said assessment with the State Treasurer; and every insurance company shall pay the amount of tax so assessed to the State Treasurer, within one month after notice, as aforesaid, who shall receipt for the same. In case any insurance company shall refuse or neglect to pay the full amount of such tax, as aforesaid, the Insurance Commissioner may, at his discretion, revoke the license of such company to do business in this State, and the license of every agent of such company. (*Ibid*, § 7.)

**16.** Any person having a claim against any insurance company not organized under the laws of this State, may sue therefor in the courts of this State, and any service made upon the authorized attorney of such company shall be valid and binding on the company and hold it to answer such suit, and the judgment rendered in such suit shall bind the company as a valid judgment in every respect, whether the defendants appear or not; this provision also to embrace all cases of foreign attachment or trustee suits. For the purpose of receiving any notice or service of any fact, proceeding or process, the attorney of the company shall be regarded as authorized until another is appointed. Unless any such judgment shall be paid within thirty days after demand made upon such attorney, by the officer holding the execution, the Insurance Commissioner may suspend the power of the company to do business in this State until it shall be paid; and if the company or any agent therefor, shall issue any policy in this State during such suspension, said company and agent shall each forfeit a sum not exceeding two hundred dollars. But any policy so granted shall be valid and binding against the company. (*Ibid*, § 8.)

**17.** All copies of charters, by-laws, certificates, appointments, and all copies of other papers required by law to be filed in the office of the Insurance Commissioner, made and certified by him, shall, in all cases, be competent evidence in the courts of the State. (*Ibid*, § 10.)

**18.** Every joint stock insurance company and every mutual fire or life insurance company, incorporated by or organized under the laws of this State and doing business therein, shall, annually, in the month of January, make and transmit to the Insurance Commissioner a statement under oath of its president and secretary, in accordance with blanks to be furnished by him, showing the amount of its capital stock, premium notes, amount at risk, risk, receipts, losses, expenditures, assets, liabilities, salaries and emoluments, assessments, rate per cent. allowed for collecting, procuring applications, and any other facts calculated to give full and satisfactory information relating to the condition and management of the company, for and during the year ending the thirty-first day of the preceding December, and shall pay the Commissioner, upon transmitting the same, the sum of five dollars. (*Ibid*, § 11.)

**19.** It shall be the duty of the Insurance Commissioner, upon petition of five or more policy-holders of any insurance company organized under the laws of this State, setting forth that they believe such company unsound, or that there is waste or mismanagement in the affairs of such company, with reasons for such belief, to make personal examination of the affairs of such company,



at the expense of the company, and for such purpose he shall have access to all the records, books and papers of the company, and may examine under oath any officer or agent of such company. If, upon examination, the Commissioner shall be of opinion that the affairs of the company are in such condition as to render it unsafe or unworthy of public confidence, he shall file a petition against such company in the office of the supreme judicial court for the county in which such company has its principal place of business, for closing the affairs of said company; and any judge of said court may issue, under the provisions of chapter one hundred and ninety of the General Statutes, a temporary injunction, to restrain such company from doing business, which shall be dissolved or made permanent by said court, upon the hearing and determination of said petition; and the court may make such further orders and decrees as the circumstances of the case and the protection of the public may render proper. (*Ibid*, § 12.)

**20.** Whenever the Insurance Commissioner shall have reason to believe that any insurance company named in section one of this act, or any insurance company organized under the laws of this State, or any officer or agent of the aforesaid insurance companies, or any other person, shall have violated any law of this State relating to such companies, officers or agents, or the business of insurance, or failed to comply with any requisition of the laws of this State relating to such companies, officers or agents, or the business of insurance, he shall forthwith report the fact, with any information he may have relating thereto, to the Attorney-General of the State, who shall, if in his judgment it is advisable so to do, prosecute every such company, officer, agent or other person therefor, and any such company, officer, agent, or other person, upon conviction, shall be liable, for each offense, to a fine not exceeding two thousand dollars and costs of prosecution. (*Ibid*, § 13.)

**21.** The Insurance Commissioner shall include in his annual report of the insurance companies of this State, an abstract of the annual statements made to him by insurance companies of other States, with such statistics, general information and suggestions relating to the subject of insurance, as he may think proper to insert in such report, giving the name and location of every such company, and the name and residence of the attorney of every such company upon whom notice of process may be served; and he shall keep on file the charters of all such companies, and all certificates relating to the means or authority of such companies, and the name and residence of every agent licensed to do insurance business in this State, together with the certificate of the company, or general agent of such company, upon which such agents have been licensed; and the fees from agents and companies for licenses, filing annual statements, and examinations, hereinbefore provided for, together with any fees he may receive for copies furnished by him, shall be in full compensation for his services as commissioner. (*Ibid*, § 14.)

#### APPOINTMENT OF ATTORNEY.

**22.** No insurance company not of this State, nor its agents, shall do business in this State after March 1, 1876, until it has filed with the Insurance Commissioner of this State a written stipulation, duly authenticated by the company, agreeing that any legal

process affecting the company, served on the Insurance Commissioner for the time being, shall have the same effect as if served personally on the company within this State. (*Laws of 1875, chap. 38, § 1.*)

**23.** In all cases where the Commissioner is served with process, it shall be his duty to make a written memorandum of the fact, and to forthwith inform the company by letter, mailed by him to the principal office of the company in this country, and shall on the next subsequent day forward the copy of the process served on him to the company sued in a separate envelope. (*Ibid, § 2.*)

**24.** All acts and parts of acts requiring such companies to appoint any other attorney in this State shall be and hereby are repealed on the first day of March, one thousand eight hundred and seventy-six, but all other provisions of existing law relating to foreign insurance companies shall be in full force as heretofore. (*Ibid, § 3.*)

### FIRE INSURANCE LOSSES.

**25.** All fire insurance companies doing business in this State, whether organized under the laws of New Hampshire or any other State, shall, within fifteen days after notice of any loss by fire upon any risk taken by them in this State, adjust the same. (*Laws of 1871, chap. 22, § 1.*)

**26.** Any company having decided to enter upon any premises destroyed or damaged by fire, to rebuild or repair the same shall commence within twenty days after said adjustment shall be made to rebuild or repair, and prosecute the work with all reasonable diligence until completed. (*Ibid, § 2.*)

**27.** Any person insured against loss or damage by fire by any insurance company, upon the neglect of said company to adjust said loss or damage by agreeing to pay the same, or rebuild or repair the premises, may, after fifteen days after having given notice of such loss or damage to said company, proceed to rebuild or repair said premises at the expense of said company, who shall be holden for all reasonable expenses incurred therein, and loss sustained by their neglect, not exceeding the amount insured; or may commence an action of law and recover loss or damage sustained. (*Ibid, § 3.*)

### SUITS AGAINST INSURANCE COMPANIES.

**28.** Every person suffering loss or damage covered by any policy of insurance may bring his action therefor in the county of his residence, if he so elects. (*General Statutes, 1867, p. 325, § 1.*)

**29.** No policy of insurance shall be avoided by reason of any mistake or misrepresentation, unless it appears to have been intentionally and fraudulently made; but the party insuring, in any action brought against them on such policy, may show the facts, and the jury shall reduce the amount for which such party would otherwise be liable as much in proportion as the premium ought to have been increased if no mistake or misrepresentation had occurred. (*Ibid, § 2.*)

**30.** If any company shall issue any policy upon an application prepared by a third person assuming to act as their agent or otherwise, they shall be affected by his knowledge of any facts relating

to the property insured as if they were stated in the application. (*Ibid*, § 3.)

**31.** In case of loss or damage of any property insured, the party insured shall give notice thereof in writing to the secretary, a director, or agent of the company, within thirty days. (*Ibid*, § 4.)

**32.** Such company, upon view or otherwise, shall, as soon as may be, determine the amount of such loss or damage, and notify the assured or his agent thereof in writing. (*Ibid*, § 5.)

**33.** If dissatisfied with such determination, the party insured may bring his action, by causing his writ to be served on the proper officer or agent of such company, within six months after the reception of such notice in writing, and not afterward. (*Ibid*, § 6.)

**34.** Unless the company in their notice of the amount of loss or damage determined by them, shall notify the insured that his action will be forever barred by law if his writ is not served on them or their agent within six months next after the service of such notice upon him, he may bring his action at any time. (*Ibid*, § 7.)

**35.** If upon trial the insured recovers more than the amount determined by the insurers, he shall have judgment and execution immediately therefor, with interests and costs. If he recovers no more than such amount, the court may allow interest thereon, and such costs to either party as may be just; but execution shall not issue against the company within three months, unless by special order of court. (*Ibid*, § 8.)

**36.** Any insurance company may insure against damage to property by lightning whether such damage is caused by burning or otherwise, and shall be liable therefor. (*Ibid*, § 9.)

### MUTUAL INSURANCE COMPANIES.

**37.** Members of mutual insurance companies shall not be individually liable to pay any debts of their respective companies, beyond their liability to assessments for losses occurring therein, nor to such assessments beyond the amount of their deposit notes. (*General Statutes*, 1867, p. 326, § 1.)

**38.** Any such company, organized under the general laws of this State, may, by vote, limit its operations to any city or town; and such vote being recorded in the records of the company, they shall be forever barred from insuring property situate beyond the limits of such city or town. (*Ibid*, § 2.)

**39.** The treasurer of every such company shall enter, in suitable books provided for the purpose, all assessments made and sums received from expired and surrendered policies, and shall charge himself with the whole of such assessments, and with all money and evidences of debt of the company received by him, and shall balance his accounts yearly, before the annual meeting; and for neglect of either of said provisions he shall forfeit twenty-five dollars, to the person who shall sue therefor. (*Ibid*, § 3.)

**40.** Any such company may terminate policies therein, by publishing a notice to all persons insured of the time when such policies will terminate, and at the same time giving or mailing a like notice to each party insured. (*Ibid*, § 4.)

**41.** No person insured in such company, or any class thereof, in which the amount insured is less than fifty thousand dollars, shall be assessed any greater sum than he would be if that amount

were insured ; but the officers of such company shall be individually liable for the balance not provided for by such assessment. (*Ibid*, § 5.)

**42.** No more than thirty per cent. above its actual indebtedness shall be assessed by any such company to close its affairs ; and the officers and agents thereof shall not receive more than twenty per cent. of the money collected for their services in closing its business. (*Ibid*, § 6.)

**43.** Agents to take applications for insurance may be appointed by the directors of any insurance company organized under the laws of this State ; but every such appointment, before it shall take effect, shall be recorded by the town clerk of the town in which he resides, and of each town in which he shall act. (*Ibid*, § 7.)

**44.** Before any agent is appointed, the fees to be paid by applicants for an application and for a policy, and the cash premium to be paid for insurance, shall be fixed and limited by the directors ; and the amount so fixed and limited shall be stated in his appointment and on each policy. (*Ibid*, § 8.)

**45.** The town or towns in which each agent may take applications shall be prescribed and stated in his appointment, and no more than two agents in any county shall be authorized to take applications in any town except that in which they reside. (*Ibid*, p. 327, § 9.)

**46.** Every such agent shall, before acting as such, give bond to the company, with sureties to the satisfaction of the directors, for the faithful performance of his duties, to pay to the company all money by him received for policies or premiums, and to repay on demand, all other and larger fees than those prescribed by the directors ; and such bond may be sued in the name of the company, by any person from whom money has been taken contrary to said rules. (*Ibid*, § 10.)

#### INSURABLE INTEREST OF RAILROAD COMPANIES.

**47.** The proprietors of every railroad shall be liable for all damages which shall accrue to any person or property by fire or steam from any locomotive or other engine on such road. (*General Statutes*, 1867, p. 310, § 8.)

**48.** Such proprietors shall have an insurable interest in all property situate on the line of such road, exposed to such damage, and may effect insurance thereon for their own benefit. (*Ibid*, § 9.)

**49.** Any insurance effected by the owners of such property thereon shall so far inure to the benefit of the proprietors of such railroad that in case of loss such proprietors shall be entitled to a deduction from the damages of the amount received thereon, except the premium and expense of recovering the same, or to an assignment of the whole damages sustained. (*Ibid*, § 10)

#### LIFE INSURANCE FOR THE BENEFIT OF MARRIED WOMEN, CHILDREN, AND OTHERS.

**50.** Any policy of insurance on the life of any person, expressed to be for the benefit of any married woman, whether effected by herself, or her husband, or any other person, shall inure for her bene-



fit, or, in case of her death, to her children, if any, against the claims of the creditors or representatives of the person effecting the same. (*General Statutes*, 1867, p. 329, § 1.)

**51.** When a policy of insurance is effected by any person on his own life or the life of another, expressed to be for the benefit of a third person or his representatives, the party for whose benefit such policy is so expressed to be made shall be entitled to the sum so insured, against the claims of the creditors or representatives of the party effecting the same. (*Ibid*, § 2.)

**52.** But if it appears that such policy was procured with intent and to the effect to defraud creditors of the person effecting the same, the party receiving the money secured by such policy shall be liable to such creditors for the amount of all premiums paid for such insurance and interest. (*Ibid*, § 3.)

### ARSON AND INCENDIARISM.

**53.** If any person shall willfully and maliciously burn any dwelling-house, or any out-building adjoining thereto, or any building whereby any dwelling-house shall be burned, he shall be imprisoned from seven to thirty years. (*General Statutes*, 1867, p. 225, § 1.)

**54.** If any person shall willfully and maliciously burn any vessel lying within the body of any county, or any bridge, or any building other than those described in the preceding section, he shall be imprisoned from two to twenty years. (*Ibid*, § 2.)

**55.** If any person shall willfully burn any stack of corn, hay, grain, or flax, or any fence, or any pile of boards, lumber, or wood, or any trees or underwood of another, he shall be imprisoned from one to three years, or fined not exceeding one thousand dollars and imprisoned not exceeding one year. (*Ibid*, § 3.)

### EMBEZZLEMENT.

**56.** Any insurance agent doing business in this State, who shall appropriate to his own use any money, or substitute for money, received by him as such agent, and refuse or neglect to pay over such money, or substitute for money, to the company or other party entitled to receive the same, for the space of thirty days after notice to make such payment, shall be deemed guilty of larceny, and upon conviction, shall be punished therefor in accordance with the laws of this State. (*Laws of 1870, chap. 1, § 9.*)

**57.** For General Provisions relating to Corporations, see *General Statutes*, 1867, pp. 275-285; laws of 1874, pp. 287, 290.

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# INSURANCE STATUTES OF NEW JERSEY.

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*Revised by Hon. Henry C. Kelsey, Secretary of State.*

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## CONSTITUTIONAL PROVISIONS CONCERNING CORPORATIONS.

**1.** The legislature shall pass no special act conferring corporate powers, but they shall pass general laws under which corporations may be organized, and corporate powers of every nature obtained, subject, nevertheless, to repeal or alteration at the will of the legislature. (*Art. 4, § 7, par. 11.*)

## INSURANCE COMPANIES OF THE STATE.

**2.** Any number of persons, not less than thirteen in number, may associate and form an incorporated company for either of the following purposes, to wit:

*First.*—To make insurance upon vessels, freights, goods, wares, merchandise, specie, bullion, jewels, profits, commissions, bank notes, bills of exchange, and other evidences of debts, bottomry and respondentia interests, and to make all and every insurance appertaining to or connected with marine risks of transportation and navigation.

*Second.*—To make insurance on dwellings, houses, stores, and all kinds of buildings, and upon household furniture, merchandise, live stock and other property, against loss or damage by fire and the risks of inland navigation and transportation.

*Third.*—To make insurance upon the health or lives of individuals, and against accidents and every insurance appertaining thereto, or connected with health, accident or life risks, and to grant, purchase or dispose of annuities. (*Revised Statutes of 1875, p. 77, § 14.*)

**3.** Any company organized under this act shall have power to make reinsurance of any risks taken by them respectively, and may make insurance upon any or all of the risks mentioned in the subdivisions of the last preceding section; but no company making insurance on the health or lives of individuals shall be permitted to take any other kind of risks, nor shall the business of life, accident or health insurance be in any wise connected or united in any company making insurance on marine or fire risks. (*Ibid, § 15.*)

**4.** Such persons shall make, acknowledge, and file in the office of the Secretary of State, a declaration in writing, signed by all the corporators, expressing their intention and desire to form a



company for the purpose of transacting the business of insurance, and setting forth :

*First.*—The name of such company to be used in its business and dealings.

*Second.*—The place where the office of said company is located and its general business conducted.

*Third.*—The character of the insurance business proposed to be carried on by said company, that is to say, whether the same shall be under the first, second, or third subdivisions of the twenty-fourth sections of this act or any branch of either of such subdivisions.

*Fourth.*—Whether the said proposed company shall be a joint stock insurance company, or a mutual insurance company.

*Fifth.*—If the same shall be a joint stock insurance company, the amount of the capital stock thereof, and the number of shares into which it is divided, and the sum with which they will commence business; if the same shall be a mutual insurance company, the amount of cash capital stock subscribed, and with which they propose to commence business.

*Sixth.*—The names and residences of the subscribers to the capital stock already subscribed for and the number of shares by them respectively agreed to be taken.

*Seventh.*—The period at which such company shall commence and terminate, not exceeding thirty years, except in case of life insurance, which may be perpetual.

*Eighth.*—The number of trustees or directors proposed to be elected, and the manner and times of electing them.

*Ninth.*—Said declaration and certificate shall also comprise a copy of the charter, if any, proposed to be adopted by said company. (*Ibid*, § 16.)

**5.** Such persons shall cause a notice of their intention to form such company to be published once in each week, for two weeks, in a public newspaper in the county in which such insurance company is proposed to be located, and if no newspaper be published in such county, then in a newspaper of this State published nearest to the same. (*Ibid*, p. 78, § 17.)

**6.** It shall be lawful for the individuals associated for the purpose of organizing any company under this act, after having published the notice and filed their declaration and charter as required by the preceding section, to open books for subscription to the capital stock of the company so intended to be organized, and to keep the same open until the full amount specified in the charter is subscribed; or in case the business of such company is proposed to be conducted on the plan of mutual insurance, then to open books to receive propositions, and enter into agreements, in the manner and to the extent hereinafter specified. (*Ibid*, § 18.)

**7.** Such companies may be organized under this act, either as companies having capital stock to be subscribed and paid for and divided into shares, which companies are herein called joint stock insurance companies, or they may be formed for the purposes aforesaid, on the plan of mutual insurance, which companies are herein called mutual insurance companies. (*Ibid*, p. 79, § 19.)

**8.** No joint stock insurance company formed under this act shall be organized with a smaller capital than one hundred thousand dollars, or entitled to commence business until said sum is actually paid in cash; nor shall any mutual insurance company, for the purpose of marine or fire insurance, be entitled to commence business

until agreements have been entered into for insurance, the premiums on which shall amount to twenty thousand dollars, and notes have been received in advance therefor, payable at or within twelve months from the date thereof, and thirty thousand dollars shall have been subscribed as capital stock, and actually paid in cash; such notes shall be considered a part of the capital stock of such mutual insurance company, and shall be valid and negotiable and collectable for paying any losses which may accrue, or any other lawful use or purpose. (*Ibid*, § 20.)

9. No company formed under this act for doing the business of life, health or accident insurance on the plan of mutual insurance, shall commence business until a cash capital of twenty-five thousand dollars shall have been paid in cash as aforesaid. (*Ibid*, § 21.)

10. The certificate and charter filed by such persons shall be examined by the Attorney-General, at or before the expiration of such notice, and if found by him to be in accordance with this act, and not inconsistent with the constitution or laws of this State, he shall so certify them to the Secretary of State; and the Secretary of State shall thereupon make examination and ascertain whether the capital herein required of the company named in the charter, according to the nature of the business proposed to be transacted by such company, has been paid, and is possessed by said company in money, or in such bonds and mortgages as are required by this act; or, if a mutual company, whether it has received or is in actual possession of the capital, premium notes, and *bona fide* engagements of insurance, or other securities, to the full extent and of the value herein required; and he shall further ascertain the name and residence of the maker of each premium note forming part of the capital, and the amount of such note; and the corporators of such company shall be required to certify, under oath, that the capital exhibited on such examination is *bona fide* property of said company; such certificates shall be filed with the Secretary of State, who shall thereupon deliver to such company a certified copy of their certificate of organization, and the charter, if any, accompanying the same, and of said certificates, which on being filed in the office of the Clerk of the county where the company is to be located, shall be their authority to commence business and issue policies; and such certified copy of said certificate of organization, charter, and of said certificates, may be used in evidence, for or against such company, with the same effect with the originals. (*Ibid*, § 22.)

11. It shall not be lawful for any company organized under this act to transact business until such company shall have deposited with the Comptroller of this State the sum of twenty thousand dollars in stocks or in bonds and mortgages; such stocks shall be the public stocks or bonds of this State, or of the United States, or the States of New York, Ohio, Massachusetts or Pennsylvania, or of the incorporated cities of this State, bearing at least six per centum interest; such mortgages shall be on unencumbered productive real estate within this State, worth double the amount so invested; and the said Comptroller may from time to time, after such company shall have commenced the transaction of business, require further deposits of stocks, bonds and mortgages, as aforesaid, to an amount equal to one-fifth of the issued policies of such company, not to exceed in all the sum of one hundred thousand dollars. (*Ibid*, p. 80, § 23.)

**12.** To every mortgage deposited with the Comptroller of this State as herein provided, the president of the company depositing the same shall annex his affidavit that said mortgage was made and taken in good faith for money loaned by the company to the amount therein named, and that no part thereof has since been paid or returned, and that he has reason to believe and does believe that the premises thereby mortgaged are worth at least double the amount of the mortgage thereon; the Comptroller shall prescribe such regulations for ascertaining the title and value of such real estate as he may deem necessary; the Comptroller shall hold said stocks, bonds and mortgages as security for policyholders in said companies, but shall, so long as any company so depositing shall continue solvent, and shall comply with all the requisites of the laws of this State applicable to such company, permit such company to collect the interest or dividends on its bonds and mortgages or stocks so deposited, and from time to time to withdraw any of such securities, on depositing with the Comptroller other like securities, stocks or mortgages, the par value of which shall be equal to the par value of such as may be withdrawn; each mortgage, so substituted, to be also accompanied with an affidavit, as required in the preceding section; and the Comptroller shall prescribe such regulations for ascertaining the title and value of the real estate covered by the mortgage so substituted as he may deem necessary. (*Ibid*, § 24.)

**13.** The Secretary of State shall be satisfied and so certify upon said certified copy of such certificate of organization, before giving such company the same, that such deposit as herein required to be made, of stocks or mortgages, with the Comptroller, has been duly made by such company. (*Ibid*, p. 81, § 25.)

**14.** It shall be lawful for any joint stock company organized under this act to increase the amount of their capital stock in the manner hereinafter mentioned; the directors of such company, or a majority of them, shall file in the office of the Secretary of State a declaration of their intention to increase their capital, and they shall publish notice of the same for thirty days in the manner prescribed in the seventeenth section of this act. (*Ibid*, § 26.)

**15.** It shall be lawful for the said directors or a majority of the same, after having published the notice before mentioned, and filed a copy of the same, with proof of publication, in the office of the Secretary of State, to open books of subscriptions for said increase of capital, and keep the same open until the full amount thereof shall be subscribed; and they shall for forty days after opening said books, give the stockholders in said company the privilege of subscribing for said stock; and if at the end of said time they shall not have subscribed for the same, then other persons may subscribe therefor. (*Ibid*, § 27.)

**16.** The whole of the increased capital shall be paid, and may be invested, and an examination thereof shall be made, and a certificate of such examination filed, as is provided in this act; and thereupon the said increase shall be deemed a part of the capital of said company, subject to all the provisions of this act applying to the same. (*Ibid*, p. 82, § 28.)

**17.** Suits at law may be maintained by any corporation formed under this act against any of its members or stockholders for any cause relating to the business of such corporation; also suits at law may be prosecuted and maintained by any member or stockholder

against such corporation for losses which may accrue if payment is withheld more than two months in all risks after such losses shall have become due. (*Ibid*, § 29.)

**18.** All companies formed under this act shall be deemed and taken to be bodies corporate and politic, in fact and in name, and shall be subject to all the provisions of the laws of this State in relation to corporations, so far as the same are applicable. (*Ibid*, § 30.)

**19.** No company formed under this act shall directly or indirectly deal or trade in buying and selling any goods, wares, merchandise or other commodities whatever, unless said goods, wares or merchandise shall come into possession of said company in the legitimate pursuit of their business. (*Ibid*, § 31.)

**20.** It shall be lawful for any company organized under this act to invest its capital, or the funds accumulated by its business, or any part thereof, in bonds and mortgages on unencumbered real estate, within this State, worth double the amount so invested, and also in the stocks or bonds of the incorporated cities of this State, or the stocks or bonds of this State, or of the United States, or the States of New York, Ohio, Massachusetts or Pennsylvania, and to lend the same, or any part thereof, on the security of such stock or bonds; and any company organized for the purpose of marine insurance may, in addition to the foregoing, loan their funds on bottomry and respondentia, and change and reinvest the same, as occasion may from time to time require. (*Ibid*, § 32.)

**21.** Any company organized by special charter of this State or under the provisions of this act, shall be permitted to purchase, hold and convey real estate for the purposes (and no other) and in the manner herein set forth, that is to say:

*First.*—Such as shall be requisite for its immediate accommodation in the transaction of its business; or,

*Second.*—Such as shall have been mortgaged to it in good faith by way of security for loans previously contracted or for moneys due; or,

*Third.*—Such as shall have been conveyed to it in satisfaction of debts previously contracted in the course of its dealings; or,

*Fourth.* Such as shall have been purchased at sales upon judgments, decrees or mortgages obtained or made for such debts; and it shall not be lawful for any incorporated company, as aforesaid, to purchase, hold or convey real estate, in any other case or for any other purpose; and all such real estate as may be acquired as aforesaid, and which shall not be necessary for the accommodation of such company, in the convenient transaction of its business, shall be sold and disposed of within five years after such company shall have acquired title to the same; and it shall not be lawful for such company to hold such real estate for a longer period than that above mentioned, unless the said company shall procure a certificate from the Chancellor that the interests of the company will suffer materially by a forced sale of such real estate, in which event the time for the sale may be extended to such a time as the Chancellor shall direct in said certificate. (*Ibid*, p. 83, § 33.)

**22.** The trustees and corporators of any company organized under this act, and those entitled to a participation of the profits, shall be jointly and severally liable until the whole amount of the capital proposed to be raised by the company shall have been paid in, and a certificate thereof recorded, as hereinbefore provided;



notes taken in advance of premiums, under this act, are not to be considered debts of the company, in determining whether a company is insolvent, but are to be regarded as assets of the company. (*Ibid*, § 34.)

**23.** When any company shall be formed under the provisions of this act, the capital stock of which by the terms of its charter shall exceed the sum hereby required for the organization of such company, the trustees and corporators of such company, and those entitled to a participation of the profits of the same, shall be relieved from the joint and general liability in the last section of the act mentioned, when capital to the amount required for such organization shall be paid in and invested as herein required. (*Ibid*, p. 84, § 35.)

**24.** Any existing joint-stock company, incorporated by this State for either of the purposes mentioned in this act, may, at any time after notice being given for three months in a newspaper of this State, published in the county where such company is located, and if no newspaper be published in such county, then in a newspaper published nearest to the same, of such intention, and with the written consent of three-fourths in amount of its stockholders, or if a mutual company, with the unanimous consent of its trustees or directors, extend its original charter to the time specified by the provisions of this act, by altering or amending the same, so as to accord with the provisions of this act, and filing a copy of the same, so altered or amended, together with a declaration, under its corporate seal, signed by its president and directors, of their desire for such extension, and also the written consent of three-fourths in amount of its stockholders, and the unanimous consent of the trustees or directors as aforesaid to such extension, in the office of the Secretary of State; and upon the filing such consent, declaration and charter, the same proceedings shall be had as are required by the thirty-second section of this act; and any of the mutual insurance companies already chartered by the Legislature of this State may, after giving ninety days' notice in three of the public papers of the State, change to joint stock companies, by proceeding in accordance with and conforming their charter to the provisions of this act. (*Ibid*, § 36.)

**25.** All the charters formed or extended under this act shall be of thirty years' duration each, except those of life insurance, which shall be without limit of time, but the legislature may at any time alter, amend or repeal this act, or dissolve and provide for the closing up the business and affairs of any company formed under it. (*Ibid*, § 37.)

**26.** No dividend shall ever be made by any company incorporated under this act when its capital stock is impaired, or when the making of such dividend would have the effect of impairing its capital stock; and any dividend so made shall subject the stockholders receiving the same to a joint and several liability to the creditors of said company to the extent of the dividend so made. (*Ibid*, p. 85, § 38.)

**27.** It shall be lawful for any mutual company, established in conformity with the provisions of this act, to unite a cash capital to any extent, as an additional security to the members over and above their premiums and stock notes, which additional cash capital shall be left open for accumulation, and shall be loaned and invested as provided in the thirty-second section of this act; and the company

may allow an interest on such cash capital, and a participation in its profits, and prescribe the liability of the owner or owners thereof to share in the losses of the company; and such cash capital shall be liable as the capital stock of the company in the payment of its debts; every company organized under this act shall pay into the Treasury of this State, for the school fund, one-quarter of one per centum per annum on its capital stock, and which amount shall be paid in, under oath or affirmation of the president and secretary thereof. (*Ibid*, § 39.)

**28.** The Secretary of State shall be entitled to charge and receive from the persons or companies requiring his service under this act such fees as are allowed by law for similar services; and when duties are required of him not provided for by law, such further compensation as the Attorney-General may direct. (*Ibid*, § 40.)

**29.** Whenever it shall appear to the satisfaction of the Secretary of State, as the result of examination, as provided for by this act, that any joint stock insurance company, incorporated by the legislature of this State, shall have a net surplus, after providing for the capital stock, reinsurance and all claims for losses and other actual liabilities, of not less than fifty thousand dollars, which amount shall be represented by scrip issued by said company, the Secretary of State shall issue a certificate of the amount of such net surplus, and such company upon a vote therefor of a majority of all the directors thereof, may increase the capital stock to the amount of such certificate, or any portion thereof, in exchange for said scrip, and may issue certificate of such stock, which shall contain the same provisions, and in shares of similar amount with that originally issued; in the case of mutual insurance companies of this State, if upon such examination the Secretary of State shall find a net surplus, after providing for reinsurance and all claims for losses and other actual liabilities, equal to the amount of scrip issued, he shall issue a certificate of the amount of such net surplus, and such company, upon a vote therefor, of a majority of all the directors thereof, may create a capital stock for the whole or any portion of the amount of such scrip in exchange for said scrip, and may issue certificates of such stock, which shall be divided into shares of such amount, and the holders thereof shall be entitled to such privileges, and subject to such liabilities as the board of directors thereof may determine not inconsistent with the charter of such company, or with the laws of this State. (*Ibid*, § 41.)

**30.** *Whereas*, by the laws of some of the United States it is provided that insurance companies incorporated under the laws of this State shall not transact business in said States except on a deposit of securities in said laws named; therefore, it shall be lawful for the Treasurer of this State, to receive from any insurance company incorporated under the laws of this State a deposit of such securities as shall be necessary to enable such company to transact business in any of the United States under the laws of said States, respectively. (*Ibid*, p. 86, § 42.)

**31.** The said securities shall be held by the Treasurer so long as such company shall desire to transact business in the States requiring such deposit; but the company making the deposit shall be at liberty to draw the dividends or receive the interest on such securities; and whenever any such company shall desire to discontinue its business in said States, and such deposit shall no longer

be required by the laws of said States, the Treasurer shall return the said securities to the company depositing the same. (*Ibid*, § 43.)

**32.** The Treasurer, for performing the duties required by the two preceding sections of this act, shall receive such compensation as is provided for performing like duties by this act. (*Ibid*, § 44.)

**33.** Nothing in either of the three last preceding sections of this act shall be construed in any wise to alter or interfere with any of the requirements hereinbefore made of the deposit of securities by companies not specially incorporated, but organized under the provisions hereinbefore enacted. (*Ibid*, p. 87, § 45.)

**34.** It shall be the duty of every life insurance company incorporated by the laws of this State to make returns in January of each year to the Secretary of this State, showing all its policies and annuity bonds in force on the first day of said month, with such particulars of the same as are necessary for the valuation thereof, as hereinafter directed; the Secretary of State shall thereupon compute or cause to be computed the value of such policies and bonds, or what is known as the reinsurance fund therefor, according to the American Experience Table of Mortality and interest at the rate of four and a half per centum, or according to the Actuaries' Mortality and four per centum interest, or according to any other recognized standard of valuation as he may deem best for the security of the business and the safety of the persons insured; upon such valuation being made and a certificate thereof furnished by the secretary, each company shall pay to such officer to defray the expense thereof, the sum of one cent for every thousand dollars of the whole amount insured by its policies so valued. (*Ibid*, § 46.)

**35.** Every fire, life, accident, marine, or other insurance company incorporated or doing business, or which may be hereafter authorized to do business under the laws of this State, shall, annually, during the month of January, file in the Department of State of this State, a statement exhibiting its condition on the thirty-first day of December last preceding, as by this act required of insurance companies of other States and nations doing business in this State; and for this purpose it shall be the duty of the Secretary of State to furnish blank forms for statements, the same as now in use, which forms may by him be from time to time changed, as may be requisite to secure full information as to the standing and condition of such insurance companies; *Provided*, That the statements required of purely mutual companies taking notes in whole or in part for premiums, which notes are liable to assessments, shall be in such form as the Secretary of State may prescribe adapted to the use of such companies; any insurance company failing to make and file such statement for the space of thirty days from the time above fixed for such filing, or to reply in writing to any inquiry made by the Secretary of State touching the same, within twenty days, shall be subject to a penalty of five hundred dollars, and a like penalty for every month that such company shall continue thereafter to transact any business of insurance without filing such statement, to be sued for and recovered in the name and for the benefit of the State, by the Attorney-General, on notice of the Secretary of State. (*Ibid*, § 47.)

**36.** It shall be the duty of the Secretary of State, whenever he shall deem it expedient, or at the request of such company, or like request in writing by three or more policy-holders therein, or creditors thereof, himself, or by such person or persons as he may de-

signate to examine into the affairs of any fire insurance company organized under the laws of, or by its agents doing business in this State; *Provided*, That not more than one examination shall be made at the request of policy-holders or creditors in any one year; and it shall be the duty of the officers or agents of any such company doing business in this State to exhibit all its books, records and accounts for the purpose of such examination, and otherwise to facilitate the same so far as it may be in their power to do, and for that purpose the Secretary of State or his representatives, shall have power to examine, under oath, the officers and agents of any company relative to the business and affairs of such company; and whenever the Secretary of State shall deem it necessary to the public good, he shall publish the result of such examination in two newspapers published in the city of Trenton, and two published in the county where the company is located; and whenever it shall appear, as the result of such examination, that the assets of any fire insurance company organized under the laws of this State, after charging it with an amount requisite for the reinsurance of all its outstanding risks and with its other proper liabilities, excepting capital stock paid in, amount to less than three-fourths of such capital, if it be a joint-stock capital company, or in the case of mutual companies, if the assets, less unsettled claims and other actual liabilities, amount to less than three-fourths of the sum requisite for reinsurance, then he shall call upon said company to make up such deficiency within such reasonable time as he shall fix, and on failure to comply with such requisition he shall communicate the fact to the Attorney-General, whose duty it shall then become to apply forthwith to the Chancellor for an order to show cause why an injunction should not issue restraining them from doing further business, and the Chancellor shall thereupon proceed to hear the allegations and proofs of the respective parties; and in case it shall appear to his satisfaction that the assets and funds of said company are not sufficient as aforesaid, or that the interests of the people so require, the Chancellor shall decree a dissolution of said company and a distribution of its effects; the Chancellor shall have power to refer the application of the Attorney-General to a master to inquire into and report upon the facts alleged. (*Ibid*, p. 88, § 48.)

**37.** Whenever it shall appear to the Secretary of State, as the result of examination as provided in this act, that the affairs of any company not incorporated by this State and doing business herein, are in an unsound condition, estimated in the same manner prescribed in the preceding sections, he shall revoke the certificates granted to such company and its agents, and shall cause a notification thereof to be published at least six times in two newspapers published in the cities of Trenton and Newark respectively; and all agents of such company, after the first publication of such notice, shall be required to discontinue the issuing of new policies or the renewing of any previously issued; and any such agent who shall make, issue, or deliver any policy, or the renewal of any policy of insurance, or collect or receive any premium of insurance, or in any way transact any business of insurance on behalf of any such company, shall be liable to the same penalties, to be recovered in like manner as prescribed in the ninth section of this act. (*Ibid*, p. 89, § 49.)

**38.** The provisions of the foregoing sections, so far as may be, shall be held to apply to life insurance companies of this State, or



of other States and governments doing business in this State, and such companies shall be subject to the same examinations, liabilities and requirements as by such sections imposed upon fire insurance companies, and the same duties are imposed upon the Secretary of State, the Attorney-General and the Chancellor; *Provided*, That injunction shall issue only when it shall appear by examination that the assets of any life insurance company, as aforesaid, are not sufficient to reinsure its outstanding risks and discharge its total actual liabilities; the actual expenses of all examinations made under authority of this act shall be paid by the companies examined. (*Ibid*, p. 90, § 50.)

**39.** The Secretary of State shall be, by virtue of his office, Commissioner of Insurance, and it shall be his duty to make annual report to the legislature, containing a summary of the statement of every insurance company filed in his office as required by law, together with such facts and information touching the same as may be in his possession, which report shall be published as are other legislative documents; and for the purpose of carrying out the provisions of this act the said Secretary shall be authorized to expend from the sum annually received from taxes on insurance companies of other States an amount not exceeding ten per centum thereof; the penalty for violation of this act, except where otherwise provided, shall be the same, to be collected in the same manner as provided in the ninth section of this act. (*Ibid*, § 51.)

**40.** No insurance company hereafter organized in this State shall issue policies until, upon examination by the Secretary of State, it shall have been found to have complied with the laws thereof; nor until the said Secretary shall have issued his certificate, setting forth such fact, and authorizing the company to commence business, and that no insurance company organized under the laws of this State, or transacting business in this State, shall expose itself to loss on any risk or hazard by fire, to an amount exceeding ten per centum of its paid up capital, or, in the case of mutual companies, of their net assets; *Provided*, That no joint stock capital insurance company shall hereafter be organized in this State, or do any business of insurance, until it shall have a fully paid up capital of at least one hundred thousand dollars; and that no such company shall make any loan or investment on the security of its own capital stock. (*Ibid*, § 52.)

**41.** The deposits of securities now required, or which may hereafter be required to be made by any insurance company of this State, shall be approved by the Secretary of State, and he shall have authority to examine the same at all times, and may order the same, or any part thereof, changed at his pleasure, and no change or transfer of the same shall be made without his assent. (*Ibid*, p. 91, § 53.)

**42.** Any person or firm who shall in any manner act for or on behalf of another in the placing or procuring of any insurance in any company of another State or nation that has not complied with the laws of this State, shall be liable to the same penalties to be recovered in like manner as prescribed in section nine of this act; certificates of authority may be issued to persons to place or cause to be procured insurance in companies which have complied with the laws of this State, although such person may not be the commissioned agent of such company, and that the amount to be paid for filing

the statements required by this act, or any of them, and for certificates to agents of foreign companies shall be five dollars. (*Ibid*, § 54.)

**43.** The several provisions of this act shall be deemed and held to extend to and include all and every person and persons who shall, within this State, make or cause to be made, procure, or cause to be procured, or who shall, directly or indirectly, act in the making or causing to be made, or in the procuring or causing to be procured, any agreement, contract or policy of insurance upon property or lives in this State, by any insurance company not incorporated by the laws of this State, or by any individual residing out of this State, notwithstanding such person or persons shall not be the agent or agents of such insurance company or individual or individuals, or shall not act for or in behalf of such company or individual or individuals, or that such agreement, contract or policy of insurance shall appear to have been made or entered into out of this State. (*Ibid*, § 55)

**44.** The provisions in the "Act concerning corporations" contained for the winding up and dissolving of any corporation, are hereby severally made applicable, so far as possible, to any corporation formed or organized by virtue hereof; and the fifty-third and fifty-fourth sections of the "Act to authorize and regulate the business of banking," shall be and the same are hereby extended to all insurance companies incorporated under the laws of this State, and, so far as practicable, to the business and assets of companies of other States doing business herein. (*Ibid*, p. 92, § 56.)

**45.** This act shall be held and construed to extend to and include any and every company transacting the business of insurance of whatever kind in this State, and all acts or parts of acts inconsistent or conflicting with this act, be and the same are hereby repealed. (*Ibid*, § 57.)

#### INSURANCE COMPANIES OF OTHER STATES AND FOREIGN COUNTRIES.

**46.** All insurance companies organized under the laws of other States or foreign governments, and transacting insurance in this State, shall, during the month of January of each year, furnish to the Secretary of State a statement signed and sworn to by their president and secretary, specifying the name of the company, where located, the amount of paid-up capital and assets of which they are possessed; showing the manner of investments, whether in bonds, mortgages, real estate, public stocks, or other securities, and particularizing the amount of each class of investment; also, the amount of income for the year past, the amount of losses for the same time, the amount of claims unpaid, the amount necessary for reinsurance, the whole number of policies issued in this State for the preceding year, the gross amount of cash premiums received therefor for the same period, the name and residence of each agent in this State, and the amount of premiums received by each during the preceding year; and it shall be the duty of the Secretary of State to prepare a form of statement, to be filled up by such insurance companies or associations, establishing agencies or transacting the business of insurance in this State, which shall conform to the above requirements. (*Revised Statutes*, 1875, p. 72, § 1.)

**47.** If upon filing the statement aforesaid it shall appear that the company or association is possessed of an actually paid-in and

well invested capital stock of at least one hundred and fifty thousand dollars over and above all claims and liabilities, and has paid the license and tax hereinafter provided for, then the Secretary of State shall issue a certificate of authority to the company for the transaction of business, and allowing agencies to be established in this State. (*Ibid*, p. 73, § 2.)

**48.** Annually, on or before the first day of February in each year, every such fire, life, accident, marine, or live-stock insurance company shall pay to the Secretary of State the sum of fifty dollars, as license for transacting business in this State, and pay a tax of two per centum on all premiums received by said companies in this State for the preceding year; *Provided, however*, That life insurance companies of States which do not impose a greater assessment upon the agents of such companies incorporated by this State, shall pay annually, on or before the first day of February, to the Secretary of State, in lieu of the tax of two per centum, the sum of twenty dollars for each and every agent appointed by and acting for them. (*Ibid*, § 3.)

**49.** When there shall exist in any city, borough, or township of this State an organized fire department, and a charitable association or organization for the accumulation and disbursement of a fund for the benefit of disabled or incapacitated firemen or their families, all the moneys received by the Secretary of State, as herein provided as payment of the tax of two per centum upon the premiums received by the agents of foreign fire insurance companies within the limits of such city, borough, or township, shall be received for the benefit of and be appropriated and applied to the use of the charitable fund of the said fire department; and the Secretary of State, before the first day of April in each year, shall, upon due proof of the *bona fide* existence of such organization or association, pay over the sums by him received for the benefit of its charitable fund during the preceding year, as above provided, to the treasurer thereof, or to such other officer as may be duly authorized to receive the same, taking a proper receipt therefor. (*Ibid*, § 4.)

**50.** The Secretary of State shall, on the first day of April of each year, make a full and complete statement to the Comptroller of all sums of money received by him from the said foreign insurance companies on account of the license, and tax of two per centum, and of all payments in lieu of said tax; and he shall also give an account of all payments made by him to charitable fire associations, in pursuance of the fourth section of this act; and the amount remaining in his hands he shall pay over to the Treasurer of the State upon a receipt countersigned by the Comptroller. (*Ibid*, p. 74, § 5.)

**51.** The Secretary of State shall issue a certificate of authority to all agents appointed and commissioned by any such foreign insurance company which have complied with the requirements of this act, to transact business in the State for one year, from the first day of February, anno domini eighteen hundred and seventy-five, and the same shall be renewed annually during the month of January every year. (*Ibid*, § 6.)

**52.** The Secretary of State shall have authority to revoke and cancel any certificate issued by him upon being satisfied that the statement upon which such certificate of authority was issued is fraudulent, or that the capital of the company since the issue of the certificate has become impaired. (*Ibid*, § 7.)

**53.** It shall not be lawful for any persons or persons to seek, take, or effect, or cause, or procure to be made or effected, or receive application for any insurance of whatever kind, by or in behalf of any person, insurance company or association not incorporated under and by virtue of the laws of this State, and no person shall, directly or indirectly, take, effect or renew a policy of insurance of any kind, on any person or thing, within this State, for any such person, association or company, without having first obtained the certificate of authority as mentioned in this act. (*Ibid*, § 8.)

**54.** Every violation of the last section of this act shall subject the party violating to a penalty of five hundred dollars for each violation, which shall be sued for and recovered, in the name of the State, by the prosecutor of the pleas of the county in which such violation shall occur, and one-half of the said penalty, when recovered, shall be paid into the treasury of said county, for the charitable fund of any fire department therein, or if none, for said county, and the other half to the informer of violation. (*Ibid*, p. 75, § 9.)

**55.** When by the laws of any other State or nation any taxes, fines, penalties, licenses, fees, deposits of moneys or of securities, or other obligations or prohibitions are imposed on life insurance companies of this State doing business in such other State or nation, or upon their agents therein, so long as such laws continue in force, the same taxes, fine, penalties, licenses, fees, deposits, obligations and prohibitions, of whatever kind, shall be imposed upon all such insurance companies of such other State or nation doing business within this State and upon their agents here; *Provided*, That nothing herein shall be held to repeal or reduce the license fee of fifty dollars required of life insurance companies of other States doing business in this State, or the further payment of twenty dollars for each and every agent appointed by and acting for them, when by the provisions of this act such two per centum is not payable. (*Ibid*, § 10.)

**56.** When by the laws of any other State or nation, any taxes, fines, penalties, licenses, fees, deposits of money or of securities, or other obligations or prohibitions are imposed on insurance companies, other than life insurance, of this State doing business in such other State or nation, or upon their agents therein, so long as such laws continue in force, the same taxes, fines, penalties, licenses, fees, deposits, obligations and prohibitions of whatever kind shall be imposed upon all such insurance companies of such other State or nation doing business within this State and upon their agents here; *Provided*, That nothing herein shall be held to repeal or reduce the license fee of fifty dollars required of fire insurance companies of other States doing business in this State, or the further payment of a tax of two per centum on all premiums received by said companies in this State for the preceding year. (*Ibid*, § 11.)

**57.** The provisions of the last two sections of this act shall be held and construed to apply to and include any and all rules, regulations, requirements or impositions of whatever kind, as well by any department or officer of the government of any State or nation, as by the laws thereof; and it is hereby expressly made and declared to be the duty of the Secretary of State of this State to strictly enforce the provisions aforesaid in this section mentioned. (*Ibid*, p. 76, § 12.)

**58.** Any insurance company organized under the laws of any other State or of the United States, and transacting the business of insurance in this State, shall be permitted to purchase, hold and



convey real estate situate in this State, for the purposes, and no other, and in the manner herein set forth, to wit:

*First.*—Such as shall be requisite for its immediate accommodation in the transaction of its business; or,

*Second.*—Such as shall have been mortgaged to it in good faith by way of security for loans previously contracted, or for money due; or,

*Third.*—Such as shall have been conveyed to it in satisfaction of debts previously contracted in the course of its dealings; or,

*Fourth.*—Such as shall have been purchased at sales upon judgments, decrees or mortgages obtained or made for such debts; and it shall not be lawful for any such company to purchase, hold or convey real estate in this State in any other case, or for any other purpose; and all such real estate as may be acquired as aforesaid, and which shall not be necessary for the accommodation of such company in the convenient transaction of its business, shall be sold and disposed of within five years after such company shall have acquired title to the same; and it shall not be lawful for such company to hold such real estate for a longer period than that above mentioned, unless the said company shall procure a certificate from the Chancellor, that the interests of the company will suffer materially by a forced sale of such real estate; in which event the time for the sale may be extended for such period as the Chancellor shall direct in such certificate. (*Ibid*, § 13.)

**59.** It shall not be lawful for any insurance company of any kind whatsoever, not incorporated under or by virtue of the laws of this State, itself or by its agents, surveyors, canvassers or other representative of whatever designation, nor for any such agent, canvasser or representative of, nor for any person on behalf of any such insurance company to open or maintain any office, or in any manner, directly or indirectly, transact any business of insurance within this State, notwithstanding such business may be transacted wholly with citizens of other States, without having previously complied with the provisions of the act to which this is a supplement, and the various supplements thereto. (*Laws of 1875, p. 108, § 1.*)

**60.** If by virtue of the laws of any State or nation, or by any rule, regulation or requirement of the officer charged with the execution of the insurance laws of any such State or nation, any certificate of the Secretary of State of this State, in any wise relating to the business or condition of any insurance company of this State transacting business or applying for authority to transact business in any such State or nation, shall be refused or not recognized, then it shall be the duty of the Secretary of State of this State, to refuse to accept any certificate of such officer of another State or nation, in any wise relating to the business or condition of any insurance company of such State or nation, transacting business or applying for authority to transact business in this State, and any insurance company of such other State or nation, transacting business or applying for authority to transact business in this State, shall be subject to the same rules, regulations, exactions, examinations, and, in the case of life insurance companies, to the same valuations of policies, and in every other respect to the same requirements as by the act to which this is a supplement and the various supplements thereto, are imposed upon insurance companies of this State; and it shall not be lawful for any insurance company of such other State or nation, itself or by its agents, or otherwise, or by any person on behalf

thereof, directly or indirectly, to transact any business of insurance within this State, without having fully complied with the provisions of this act. (*Ibid*, § 2.)

**61.** The penalty for every violation of this act shall be five hundred dollars, to be sued for and collected, on complaint, in the name of the State, by the prosecutor of the pleas for the county where the offense shall have been committed; and the person or persons against whom a judgment shall be obtained shall be committed to the county jail until such fine and costs are paid or otherwise discharged; and one-half of said penalty, when recovered, shall be paid to the charitable fund of any fire department in said county, and the other half to the complainant. (*Ibid*, p. 109, § 3.)

### LIFE INSURANCE FOR THE BENEFIT OF MARRIED WOMEN AND CHILDREN.

**62.** It shall be lawful for any married woman, by herself and in her name, or in the name of any third person, with his assent as her trustee, to cause to be insured, for her sole use, the life of her husband for any definite period or for the term of his natural life; and in case of her surviving her husband, the sum or net amount of the insurance becoming due and payable by the terms of the insurance shall be payable to her, to and for her own use, free from the claims of the representatives of her husband or his creditors. (*Laws of 1851, p. 34, § 1, as amended by laws of 1871, p. 25.*)

**63.** In case of the death of the wife before the decease of her husband, the amount of the insurance may be made payable, after the death, to her children, for their use, and to their guardian, if under age. (*Ibid*, § 2.)

**64.** Any married woman holding a policy of insurance on the life of her husband or other person may transfer and assign the same to her husband or to any other person or persons with his assent as if she was at the time of making such transfer and assignment a single female, and the assignee or assignees of such policy or policies shall hold the same in as full and ample a manner as if the assignor, at the time of making such assignment, had been sole and unmarried. (*Laws of 1875, p. 78.*)

### INQUESTS IN CASES OF FIRES.

**65.** Whenever it shall be made to appear by the affidavit of a creditable witness, that there is ground to believe that any building has been maliciously set on fire or attempted to be, any coroner, sheriff, or justice of the peace of the county in which such crime is supposed to have been committed, to whom such affidavit shall be delivered, and who shall be requested by the president, secretary, or agent of any insurance company, to investigate the truth of such belief, shall do so forthwith. (*Laws of 1875, p. 33, § 1.*)

**66.** For the purpose of such investigation, such officers shall possess all the powers now conferred by law upon coroners, in regard to inquests upon dead bodies. (*Ibid*, § 2.)

**67.** The jury, after being duly sworn, shall, with the officer holding the investigation, inspect the place where the fire was, or was attempted, and shall hear the testimony, and after so doing, shall deliver to the officer holding such investigation, their inquisi-

tion in writing, signed by them, in which they shall find and certify how and in what manner such fire happened or was attempted, and all the circumstances attending the same, and who was or were guilty thereof, either as principal or accessory, and in what manner; if the jury are unable to ascertain the origin or circumstances of such fire, they shall find and certify accordingly. (*Ibid*, § 3.)

**68.** If the jury find that any building has been designedly set on fire, or has been attempted so to be, the officer holding such investigation, shall have power to issue process for the arrest of the party charged with such offense, and to convict him to await the action thereon of the next grand jury of that county; *Provided*, He be not already in custody; and shall also have power, when in his judgment necessary, to bind over the witnesses to appear and testify at the next criminal court of said county. (*Ibid*, p. 34, § 4.)

**69.** The officer issuing such process, shall have the same power to examine the party arrested as is now possessed by justices of the peace in criminal arrests, and shall proceed in like manner. (*Ibid*, § 5.)

**70.** The testimony of all witnesses examined before the jury under this law, shall be reduced to writing, by or under the direction of the officer holding the investigation, and shall be returned by him, together with the inquisition of the jury, and all recognizances and examinations taken under his hand and seal, to the next criminal court of record to be held in said county. (*Ibid*, § 6.)

**71.** The costs and expenses of such investigation shall be ascertained and taxed in the same manner as provided by law for like services by coroners when holding inquests upon dead bodies, and shall be paid by the insurance company whose president, secretary, or agent has requested such investigation; and any such officer may, before he proceeds to the business of the inquiry, require of the said insurance company a bond in the sum of one hundred dollars, conditioned for the payment of said fees after the conclusion of said inquest. (*Ibid*, § 7.)

## ARSON AND INCENDIARISM.

**72.** If any person willfully and maliciously shall burn, or cause to be burned, or aid, counsel, procure, or consent to the burning of the dwelling-house of another, or any kitchen, shop, barn, stable, or other out-house that is a parcel thereof, or belonging or adjoining thereto, or any other building, by means whereof a dwelling-house shall be burnt, then, and in every such case, the person so offending shall be adjudged guilty of arson, and be proceeded against for a high misdemeanor, and, on conviction, shall be punished by fine, not exceeding two thousand dollars, and imprisonment at hard labor, for any term not exceeding fifteen years, or either of them. (*Revised Statutes*, 1874, p. 150. § 84.)

**73.** If any person willfully and maliciously shall burn, or cause to be burned, or aid, counsel, procure, or consent to the burning of any barn, stable, or other building of another, not a parcel of a dwelling-house, or any shop, store-house, warehouse, malt-house, mill, or other building of another, or any ship, boat, or other vessel of another, lying within the body of any county of this State, or any church, meeting house, court-house, work-

house, jail, or other public building, then, and in every such case, the person so offending shall be adjudged guilty of a misdemeanor, and, on conviction, shall be punished by fine, not exceeding one thousand dollars, and imprisonment at hard labor for any term not exceeding ten years, or either of them. (*Ibid*, § 85.)

**74.** If any person shall willfully and maliciously set fire to, or aid, procure, or consent to the setting fire to any church, meeting-house, court-house, workhouse, jail, or other public building, or any dwelling-house, kitchen, shop, storehouse, warehouse, malt-house, mill, barn, stable, or other house or building of another, or any ship, boat, or vessel of another, lying within the body of any county in this State, with intent to burn the same, then, and in every such case, the person so offending shall be adjudged guilty of a misdemeanor, and, on being thereof convicted, shall be punished by fine not exceeding five hundred dollars, and imprisonment at hard labor for any term not exceeding five years, or either of them. (*Ibid*, § 86.)

**75.** If any person shall willfully and maliciously set fire to or burn, or aid, counsel, procure, or consent to the setting fire to or burning of any building, ship, or vessel, or any goods, wares, merchandise, or other chattels, which shall at the time be insured by any person or corporation against loss or damage by fire, with intent to prejudice any person or corporation that has underwritten or shall underwrite any policy of insurance thereon, whether the same be the property of such person, or any other, such person so offending shall be adjudged guilty of a misdemeanor, and on conviction, shall be punished by fine not exceeding one thousand dollars, or imprisonment at hard labor for a term not exceeding ten years, or either of them. (*Ibid*, p. 151, § 87.)

**76.** If any person shall willfully set fire to or burn, or aid, counsel, procure, or consent to the setting fire to or burning, of any dwelling house, shop, barn, stable, warehouse, or other building of another, in his or her possession, with intent to defraud any person whatever, such occupant shall be deemed guilty of a misdemeanor, and on conviction, shall be punished by fine not exceeding one thousand dollars, and imprisonment at hard labor for any term not exceeding five years, or either of them. (*Ibid*, § 88.)

#### EMBEZZLEMENT.

**77.** If any servant, employee, or agent, of any individual or incorporated company shall take or receive any money, bank bill or note, for or above the price or value of twenty dollars, belonging to his master, employer, or to the said incorporated company, with intent to defraud such master, employer, or incorporated company thereof, and shall willfully retain and appropriate to his own use the said money, bank bill, or note, knowing the same to belong to his master, employer, or to the said incorporated company, every person so offending shall be deemed guilty of a misdemeanor, and, on conviction shall be punished by fine not exceeding five hundred dollars, or imprisonment at hard labor not exceeding three years, or both. (*Revised Statutes*, p. 175, § 161.)

**78.** For General Provisions concerning Corporations, see Nixon's Digest, 1868, pp. 167-173, 404-409; Laws of 1871, p. 58; Laws of 1872, p. 27; Laws of 1875, p. 45.



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# INSURANCE STATUTES OF NEW YORK.

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*Revised by Hon. Orlow W. Chapman, Superintendent of the Insurance Department.*

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## CONSTITUTIONAL PROVISIONS CONCERNING CORPORATIONS.

**1.** Corporations may be formed under general laws; but shall not be created by special act, except for municipal purposes, and in cases where, in the judgment of the legislature, the objects of the corporation cannot be attained under general laws. All general laws and special acts, passed pursuant to this section, may be altered from time to time, or repealed. (*Art. 8, § 1.*)

**2.** Dues from corporations shall be secured by such individual liability of the corporators, and other means, as may be prescribed by law. (*Ibid, § 2.*)

**3.** The term corporations, as used in this article, shall be construed to include all associations and joint-stock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships. And all corporations shall have the right to sue and shall be subject to be sued in all courts in like cases as natural persons. (*Ibid, § 3.*)

## APPLICATIONS TO THE LEGISLATURE, FOR ACTS OF INCORPORATION, AMENDMENTS, ETC.

**4.** All persons applying to divide or alter the bounds of any county, city or village; or to erect a new county; or to incorporate a new city or village:

And all persons applying for the removal of any court-house, or the imposing of a tax for making or improving a road, or for any other local purpose in any county, where all or any of the inhabitants of such county are proposed to be taxed:

Shall give notice of such intended application by advertisement to be published for at least six weeks successively, immediately before such application, or before the first day of the session at which the same is to be made, in a newspaper printed in the county or in each of the counties where the objects of such application are intended to be carried into effect, and also in case of intended application for the imposition of any tax as aforesaid, in the State paper. (*Laws of 1818, p. 121, and Revised Statutes, part I., chap. VII., title 3, § 1; Vol., I. p. 154, Edmonds' edition.*)

**5.** Every association intending to apply to the legislature for an act of incorporation, and every corporation intending to apply for an alteration, amendment or extension of its charter, shall cause

the like notice of such application to be published in the State paper, and also in a newspaper printed in the county in which such corporation is intended to be, or shall have been established. (*Ibid*; and *Revised Statutes, part I., chap. VII., title 3, § 2*; *Vol. I., p. 154, Edmonds' edition.*)

6. If no newspaper be printed in a county in which any notice is required to be published, such notice shall be published in like manner, in the place nearest thereto in which a newspaper shall be printed. (*Ibid*; and *Revised Statutes, part I., chap. VII., title 3, § 3*; *Vol. I., p. 154, Edmonds' edition.*)

7. If the application be for an act of incorporation, the notice shall specify the amount of the capital stock requisite to carry the objects of such incorporation into effect; and if the application be for an alteration in any charter already granted, the notice shall state specifically the alteration intended to be applied for. (*Ibid*; and *Revised Statutes, part I., chap. VII., title 3, § 4*; *Vol. I., p. 154, Edmonds' edition.*)

### INSURANCE DEPARTMENT.

8. There is hereby established a separate and distinct department, which shall be charged with the execution of the laws heretofore passed, or that may be hereafter passed, in relation to insurance. (*Laws of 1859, chap. 366, § 1.*)

9. The chief officer of the said department shall be denominated the Superintendent of the Insurance Department. After the expiration of the term of office of the present Superintendent, or whenever a vacancy shall occur in such office, such chief officer shall be appointed by the Governor by and with the advice and consent of the Senate, and shall hold his office for the term of three years. He shall receive an annual salary of seven thousand dollars, to be paid in monthly installments, which salary shall be in full for all services to be performed by said Superintendent in any capacity, and all fees and moneys collected by him shall be paid into the State Treasury monthly. He shall employ, from time to time, the necessary clerks to discharge such duty as he shall assign them, whose compensation shall be paid to them monthly on his certificate and upon a warrant of the Comptroller. He shall appoint one of the said clerks to be his deputy, who shall possess the power and perform the duties attached by law to the office of principal, during a vacancy in such office and during the absence or inability of his principal. Whenever examinations shall be made of any insurance company by the Superintendent or Deputy Superintendent personally, or by one or more of the regular clerks of said department, no charge shall be made on such examination but for the necessary traveling and other actual expenses, and all charges for making examinations of any insurance company, and all charges against any company by any attorney or appraiser of this department, shall be presented in the form of an itemized bill, which shall first be approved by the said Superintendent and then audited by the Comptroller, and shall be paid on his warrant, drawn in the usual manner upon the State Treasurer, to the person or persons making such examination, and the company examined, on receiving a certified copy of said bill of charges, as audited and paid by the Comptroller, shall repay the amount of the same to the said Superintendent, to be by him paid into the State Treasury to replace the money drawn out as

above provided for; and no company examined shall either directly or indirectly pay, by way of gift, gratuity, or otherwise, any other or further sum to said Superintendent or examiners for services, extra services, or for purposes of legislation, or on any other pretense whatever. Said Superintendent, examiner or any officer, clerk or other employee of any insurance company, violating the provisions of this section, shall be guilty of a misdemeanor. Within fifteen days from the time of notice of their appointment respectively, the Superintendent and his deputy, shall take and prescribe the oath of office prescribed by the constitution, and file the same in the office of the Secretary of State; and the said officers shall be in all respects subject to the provisions of the sixth title of chapter five of the first part of the Revised Statutes, as far as the same may be applicable; and within the said fifteen days the said Superintendent of the Insurance Department shall give to the people of the State of New York a bond in the penalty of twenty-five thousand dollars, with two good sureties, to be approved by the Comptroller, conditioned for the faithful discharge of the duties of his office; and the said Superintendent shall not, either directly or indirectly, be interested in any insurance company except as an ordinary policy holder. (*Ibid*, § 2, as amended by laws of 1861, chap. 326, § 1, and by laws of 1873, chap. 593, § 1.)

**10.** The said Superintendent shall have power to refuse admission to any company, corporation or association, applying to be permitted to transact the business of insurance in this State from any other State or country, whenever upon examination, the capital stock of such company, corporation or association shall be impaired, and, also, whenever, in his judgment, such refusal to admit shall best promote the interests of the people of this State. (*Laws of 1873, chap. 593, § 2.*)

**11.** The Superintendent of the Insurance Department shall possess all the powers, perform all the duties, and be subjected to all the obligations and penalties, now conferred by law upon the Comptroller of this State, or to which the Comptroller is subject in relation to insurance companies and the formation thereof, under the laws relating thereto, so that every power and duty thereby conferred on the Comptroller shall, from and after the appointment of such Superintendent, be transferred to and conferred upon the said Superintendent. In addition to the requirements of the laws of eighteen hundred and fifty-three relating to the annual reports relative to insurance, the Superintendent shall be required to report the names and compensation of the clerks employed by him, and the whole amount of expenses of the department during the year; such report shall be made by or before the first day of April, and fifteen hundred copies for the use of the Superintendent, and the usual number of copies for the use of the legislature, shall be printed by the printer employed to print legislative documents. (*Laws of 1859, chap. 366, § 3, as amended by laws of 1866, chap. 514, § 1.*)

**12.** The said Superintendent, with the approval of the Governor, shall devise a seal with suitable inscriptions, for his office, a description of which, with a certificate of approval by the Governor, shall be filed in the office of the Secretary of the State, with an impression thereof, which seal shall thereupon be and become the seal of office of the Superintendent of the Insurance Department, and the same may be renewed whenever necessary. Every certificate, assignment or conveyance executed by the said Superintendent, in



pursuance of any authority conferred on him by law, and sealed with his said seal of office, shall be received as evidence, and may be recorded, in the proper recording offices, in the same manner and with the like effect as a deed regularly acknowledged or proved before an officer authorized by law to take the proof or acknowledgment of deeds; and all copies of papers in the office of the said Superintendent, certified by him and authenticated by the said seal, shall in all cases be evidence equally and in like manner as the original. An impression of said seal directly on paper shall be as valid as if made on a wafer or wax. (*Ibid*, § 4.)

**13.** All books, papers and documents, securities, stocks, bonds and mortgages, and all other papers whatever in the Comptroller's office and in the office of the Secretary of State, relating to the business of insurance, shall, on demand, be delivered and transferred to the Superintendent of the Insurance Department, and be and remain in his charge and custody. (*Ibid*, § 5.)

**14.** There shall be assigned to the said Superintendent, by the trustees of the State Hall, suitable rooms therein for conducting the business of said department, and the said Superintendent shall, from time to time, furnish the necessary furniture, stationery, fuel, lights, and other proper conveniences for the transaction of the said business, the expenses of which shall be paid on the certificate of the Superintendent and the warrant of the Comptroller. (*Ibid*, § 6.)

**15.** There shall be paid by every company, association, person or persons, or agent, to whom this act shall apply, the following fees toward paying the expenses of executing this act: For filing the declaration now required by law, or the certified copy of a charter also now required, the sum of thirty dollars; for filing the annual statement now required, twenty dollars; for each certificate of authority and certified copy thereof, such sum, not exceeding five dollars, as shall be fixed from time to time by the said Superintendent; for every copy of paper filed in his office, the sum of ten cents per folio, and for affixing the seal of said office to such copy and certifying the same, one dollar. In case the expenses of said department shall exceed the amount of fees collected under this act, and paid into the State treasury (exclusive of the tax upon marine premiums), the excess of such expenses shall be annually assessed by the Superintendent, pro rata, upon all insurance companies of this State; and the said Superintendent is hereby empowered to collect such assessments and pay the same into the State treasury. (*Ibid*, § 7, as amended by laws of 1871, chap. 709, § 1.)

**16.** The taxes on premiums which by existing laws are required to be paid into the State treasury, and for the benefit of the fire departments of the several cities and incorporated villages of this State, on the first day of February in each year, and all taxes on premiums which now are or hereafter shall be required by law to be paid to the Superintendent of the Insurance Department, shall hereafter be paid on the first day of January in each year, and shall be upon the premiums which during the year or part of the year ending on the preceding thirty-first day of December shall have been received by any insurance company, or by any person acting as agent therefor, or for any individuals or association of individuals, not incorporated or authorized by the laws of this State, to effect insurances against fire, inland, marine, life, casualty or other losses and risks, or which shall have been received by any person for any such company or agent, or shall have been agreed to be paid for any

insurance effected or agreed to be effected or procured by such company or agent, or against fire, inland, marine, life, casualty or other risks, although such companies, associations or individuals may be incorporated or authorized for that purpose by any other State or country. (*Laws of 1866, chap. 825, § 1.*)

**17.** Whenever the existing or future laws of any other State of the United States shall require of insurance companies, incorporated by or organized under the laws of this State, and having agencies in such other States, or of the agents thereof, any deposit of securities in such State for the protection of policy-holders, or otherwise, or any payment for taxes, fines, penalties, certificates of authority, license fees, or otherwise, greater than the amount required for such purposes from similar companies of other States by the then existing laws of this State, then, and in every such case, all companies of such States establishing, or having heretofore established an agency or agencies in the State, shall be and are hereby required to make the same deposit for a like purpose in the Insurance Department of the State, and to pay the Superintendent of said Insurance Department for taxes, fines, penalties, certificates of authority, license fees and otherwise, an amount equal to the amount of such charges and payments imposed by the laws of such State upon the companies of this State and the agents thereof. And the Superintendent of the Insurance Department is hereby authorized to remit any of the fees and charges which he is required to collect by existing laws, except such as he is required to collect under and by virtue of this act; *Provided, however,* That no discrimination shall be made in favor of one company over any other from the same State. (*Laws of 1865, chap. 694, § 1, as amended by laws of 1875, chap. 60, § 1.*)

## FIRE INSURANCE COMPANIES AND AGENCIES.

**18.** Any number of persons, not less than thirteen, may associate and form an incorporated company for the following purposes, to wit:

To make insurance on dwelling-houses, stores and all kinds of buildings, and upon household furniture and other property, against loss or damage by fire, and the risks of inland navigation and transportation. (*Laws of 1853, chap. 466, § 1.*)

**19.** Any and all insurance companies, incorporated under the provisions of the act entitled "An act to provide for the incorporation of insurance companies," passed April tenth, eighteen hundred and forty-nine; or under the provisions of the act entitled "An act to provide for the incorporation of fire insurance companies," passed June twenty-fifth, eighteen hundred and fifty-three; which shall, in the declaration and charter provided to be filed by the third sections of such acts respectively, have expressed an intention to make insurance, or which shall have power to make insurance against loss or damage by the risks of inland navigation or transportation, shall have power to make insurance upon vessels, boats, cargoes, goods, merchandise, freights and other property against loss and damage by all or any of the risks of lake, river, canal and inland navigation and transportation. (*Laws of 1861, chap. 92, § 1.*)

**20.** Any insurance company hereafter incorporated under the last of said acts, may have the powers aforesaid, if in its charter it shall express its intent to exercise such powers. (*Ibid, § 2.*)

**21.** Any company organized under this act, shall have power to effect reinsurance of any risks taken by them respectively. (*Laws of 1853, chap. 466, § 2.*)

**22.** Such persons shall file in the office of the Superintendent of the Insurance Department a declaration signed by all the corporators, expressing their intention to form a company for the purpose of transacting the business of insurance as expressed in the first section of this act, which declaration shall also comprise a copy of the charter proposed to be adopted by them, and shall publish a notice of their intention in a public newspaper, in the county in which such insurance company is proposed to be located, for at least two weeks successively. (*Ibid, § 3, as amended by laws of 1873, chap. 851, § 1.*)

**23.** The charter comprised in such declaration, shall set forth the name of the company; the place where the principal office for the transaction of its business shall be located; the mode and manner in which the corporate powers granted by this act are to be exercised; the mode and manner of electing trustees or directors, a majority of whom shall be citizens of this State; and of filling vacancies (but each director of a stock company shall be the owner in his own right of at least five hundred dollars' worth of the stock of such company, at its par value); the period for the commencement and termination of its fiscal year, and the amount of capital to be employed in the transaction of its business; and the Superintendent of the Insurance Department shall have the right to reject any name or title of any company applied for, when he shall deem the name too similar to one already appropriated, or likely to mislead the public in any respect. (*Ibid, § 4.*)

**24.** No company formed under this act shall directly or indirectly, deal or trade in buying goods, wares, merchandise, or other commodities whatever, excepting such articles as may have been insured by any company, and are claimed to be damaged by fire or water. (*Ibid, § 5.*)

**25.** No joint-stock company shall be incorporated under this act in the city and county of New York, nor in the county of Kings, nor shall any company incorporated under this act establish any agency for the transaction of business in either of said counties, with a smaller capital than two hundred thousand dollars, nor in any other county in this State with a smaller capital than fifty thousand dollars; nor shall any company formed for the purpose of doing the business of fire or inland navigation insurance, on the plan of mutual insurance, commence business, if located in the city of New York or in the county of Kings, nor establish any agency for the transaction of business in either of said counties, until agreements have been entered into for insurance with at least four hundred applicants, the premiums on which shall amount to not less than two hundred thousand dollars, of which forty thousand dollars at least shall have been paid in cash, and notes of solvent parties, founded on actual and *bona fide* applications for insurance, shall have been received for the remainder; nor shall any mutual insurance company in any other county of the State commence business until agreements have been entered into for insurance with at least two hundred applicants, the premiums on which shall amount to not less than one hundred thousand dollars, of which twenty thousand dollars at least shall have been paid in cash, and notes of solvent parties, founded on actual and *bona fide* applications for in-



surance, shall have been received for the remainder. No one of the notes received as aforesaid shall amount to more than five hundred dollars; and no two shall be given for the same risk, or be made by the same person or firm, except where the whole amount of such notes shall not exceed five hundred dollars; nor shall any such note be represented as capital stock unless a policy be issued upon the same within thirty days after the organization of the company, upon a risk which shall be for no shorter period than twelve months. Each of said notes shall be payable, in part or in whole, at any time when the directors shall deem the same requisite for the payment of losses by fire or inland navigation, and such incidental expenses as may be necessary for transacting the business of said company. And no note shall be accepted as part of such capital stock, unless the same shall be accompanied by a certificate of a justice of the peace or supervisor of the town or city where the person making such note shall reside, that the person making the same is, in his opinion, pecuniarily good and responsible for the same, and no such note shall be surrendered during the life of the policy for which it was given. No fire insurance company organized under this act or transacting business in this State, shall expose itself to any loss on any one fire or inland navigation risk, or hazard, to an amount exceeding ten per cent. of its paid-up capital. (*Ibid*, § 6, as amended by laws of 1854, chap. 369, § 1, and by laws of 1862, chap. 367, § 1.)

**26.** It shall and may be lawful for the individuals associated for the purpose of organizing any company under this act, after having published the notice and filed their declaration and charter, as required by the third section of this act, and also on filing in the office of the Superintendent of the Insurance Department proof of such publication, by the affidavit of the publisher of such newspaper, his foreman or clerk, to open books for subscription to the capital stock of the company so intended to be organized, and to keep the same open until the full amount specified in the charter is subscribed; or in case the business of such company is proposed to be conducted on the plan of mutual insurance, then to open books to receive propositions, and enter into agreements in the manner and to the extent specified in the sixth section of this act. (*Ibid*, § 7.)

**27.** It shall be lawful for any fire insurance company organized under this act, or incorporated under any law of this State, to invest its capital and the funds accumulated in the course of its business, or any part thereof, in bonds and mortgages on unincumbered and improved real estate within the State of New York, worth fifty per cent. more than the sum loaned thereon, exclusive of buildings, unless such buildings are insured and the policy transferred to said company, and also in the stocks of this State or stocks or treasury notes of the United States, and also in the stocks and bonds of any county or incorporated city in this State, authorized to be issued by the legislature, and to lend the same, or any part thereof, in the security of such stocks or bonds or treasury notes, or upon bonds and mortgages as aforesaid, and to change and reinvest the same as occasion may, from time to time, require; but any surplus money over and above the capital stock of any such fire and inland navigation insurance companies, or any fire insurance companies incorporated under any law of this State, may be invested in or loaned upon the pledge of the public stock or the



bonds of the United States or any one of the States, or the stocks, bonds or other evidences of indebtedness of any solvent dividend-paying institutions incorporated under the laws of this State or of the United States, except their own stock, and any amount, not exceeding one-half the annual premium receipts of any company upon its outstanding policies in any other State of the United States, may be invested upon bond and mortgage security upon real estate in such State, which shall be certified by the Superintendent of the Insurance Department of this State to be unincumbered, improved, and worth double the sum loaned thereon, or in the stocks or bonds of any foreign country to the extent which may be provided under the laws thereof as the condition of such company doing business therein; provided, that such investment in such foreign stocks or bonds shall be made only from funds which constitute a surplus over and above capital and other liabilities and subject to the approval of the Superintendent of the Insurance Department. (*Ibid*, § 8, as amended by laws of 1871, chap. 608, § 1.)

**28.** No company organized by or under this act shall purchase, hold, or convey real estate, excepting for the purposes and in the manner herein set forth, to wit:

1. Such as shall be requisite for its convenient accommodation in the transaction of its business; or,

2. Such as shall have been mortgaged to it in good faith, by way of security for loans previously contracted, or for money due; or,

3. Such as shall have been conveyed to it in satisfaction of debts previously contracted in their legitimate business, or for money due; or,

4. Such as shall have been purchased at sales upon judgments, decrees, or mortgages obtained or made for such debts; and it shall not be lawful for any such company to purchase, hold, or convey real estate in any other case, or for any other purpose; and all such real estate as may be acquired, as aforesaid, and which shall not be necessary for the accommodation of such company in the transaction of its business, shall be sold and disposed of within five years after such company shall have acquired title thereto, unless the company shall procure a certificate from the Superintendent of the Insurance Department, that the interests of the company will suffer materially by a forced sale thereof, in which event the sale may be postponed for such a period as the said Superintendent shall direct in said certificate; and the said Superintendent may also give such certificate and extend the time for holding real estate, in the like circumstances, on the application of any insurance company heretofore incorporated. (*Ibid*, § 9.)

**29.** The time within which any fire insurance company of this State may sell and convey real estate now held or owned by it, is hereby extended five years from the passage of this act. (*Laws of 1864, chap. 563, § 3.*)

**30.** The charter and proof of publication herein required to be filed by every such company shall be examined by the Attorney-General, and, if found conformable to this act and not inconsistent with the constitution or laws of this State, shall be certified by him to the Superintendent of the Insurance Department, who shall thereupon cause an examination to be made, either by himself or by three disinterested persons specially appointed by him for that purpose, who shall certify, under oath, that the capital herein required of the company named in the charter, according to the nature of the

business proposed to be transacted by such company, has been paid in and is possessed by it in money, or in such stocks and bonds and mortgages as are required by the eighth section of this act, or, if a mutual company, that it has received and is in actual possession of the capital, premiums, or *bona fide* engagements of insurance, or other securities, as the case may be, to the full extent and of the value required by the sixth section of this act; and the name and the residence of the maker of each premium note forming part of the capital, and the amount of such note, shall be returned to the said Superintendent; and the corporators or officers of such company shall be required to certify, under oath, that the capital exhibited to those persons is *bona fide* property of the company. Such certificates shall be filed in the office of the said Superintendent, who shall thereupon deliver to such company a certified copy of the charter and of said certificates, which, on being filed in the office of the Clerk of the county where the company is to be located, shall be their authority to commence business and issue policies; and such certified copy of the charter and of said certificates may be used in evidence for or against said company, with the same effect with the originals. (*Laws of 1853, chap. 466, § 10.*)

**31.** The corporators, or the trustees or directors, as the case may be, of any company organized under this act shall have power to make such by-laws, not inconsistent with the constitution or laws of this State, as may be deemed necessary for the government of its officers and the conduct of its affairs, and the same when necessary to alter and amend; and they and their successors may have a common seal, and may change and alter the same at their pleasure. (*Ibid, § 11.*)

**32.** It shall not be lawful for the directors, trustees, or managers of any fire insurance company to make any dividend, except from the surplus profits arising from their business; and in estimating such profits there shall be reserved therefrom a sum equal to the whole amount of premiums on unexpired risks and policies, which are hereby declared to be unearned premiums; and, also, there shall be reserved all sums due the corporation on bonds and mortgages, bonds, stocks, and book accounts, of which no part of the principal or the interest thereon has been paid during the last year, and for which foreclosure or suit has not been commenced for collection, or which, after judgment obtained thereon, shall have remained more than two years unsatisfied, and on which interest shall not have been paid; and, also, there shall be reserved all interest due or accrued and remaining unpaid; *Provided, always,* That any company may declare dividends not exceeding ten per cent. on its capital stock in any one year that shall have accumulated, and be in possession of a fund, in addition to the amount of its capital stock, and of such dividend, and all actual outstanding liabilities, equal to one-half of the amount of all premiums on risks not terminated at the time of making such dividend. Any dividend made contrary to these provisions shall subject the company making the same to a forfeiture of its charter, and each stockholder receiving it to a liability to the creditors of such company to the extent of the dividend received, in addition to the other penalties and punishments in such case made and provided. This section shall not apply to the declaration of scrip dividends by participating companies; but no such scrip dividends shall be paid except from surplus profits, after reserving all sums as above provided, including the whole

amount of premiums on unexpired risks. The word "year," wherever used in this section, shall be construed to mean the calendar year. (*Ibid*, § 12, as amended by laws of 1862, chap. 367, § 3, by laws of 1864, chap. 563, § 2, by laws of 1865, chap. 199, § 1, and by laws of 1867, chap. 91, § 7.)

**33.** All notes deposited with any mutual insurance company at the time of its organization, as provided in section six, shall remain as security for all losses and claims, until the accumulation of the profits, invested as required by the eighth section of this act, shall equal the amount of cash capital required to be possessed by stock companies organized under this act, the liability of each note decreasing proportionately as the profits are accumulated; but any note which may have been deposited with any mutual insurance company subsequent to its organization, in addition to the cash premium on any insurance effected with such company, may, at the expiration of the time of such insurance, be relinquished and given up to the maker thereof, or his representative, upon his paying his proportion of all losses and expenses which may have accrued thereon during such term. The directors or trustees of any such company shall have the right to determine the amount of the note to be given in addition to the cash premium by any person insured in such company; but in no case shall the note be more than five times the whole amount of the cash premium. And every person effecting insurance in any mutual company, and also their heirs, executors, administrators and assigns, continuing to be so insured, shall thereby become members of said corporation during the period of insurance, and shall be bound to pay for losses and such necessary expenses, as aforesaid, accruing in and to said company in proportion to the amount of his deposit note or notes. The directors shall, as often as they deem necessary, after receiving notice of any loss or damage by fire sustained by any member, and ascertaining the same, or after the rendition of any judgment against said company for loss or damage, settle and determine the sums to be paid by the several members thereof as their respective portion of such loss, and publish the same in such manner as they shall see fit or as the by-laws shall have prescribed; and the sum to be paid by each member shall always be in proportion to the original amount of his deposit note or notes, and shall be paid to the officers of the company within thirty days next after the publication of said notice. And if any member shall, for the space of thirty days after the publication of said notice, and after personal demand for payment shall have been made, neglect or refuse to pay the sum assessed upon him as his proportion of any loss, as aforesaid, in such case the directors may sue for and recover the whole amount of his deposit note or notes, with costs of suit; but execution shall only issue for assessments and costs as they accrue, and every such execution shall be accompanied by a list of the losses for which the assessment is made. If the whole amount of deposit notes shall be insufficient to pay the loss occasioned by any fire or fires, in such case the sufferers insured by the said company shall receive, towards making good their respective losses, a proportional share of the whole amount of said notes, according to the sums by them respectively insured; but no member shall ever be required to pay, for any loss occasioned by fire or inland navigation, more than the whole amount of his deposit note. (*Laws of 1853, chap. 466, § 13, as amended by laws of 1854, chap. 369, § 3.*)

**34.** It shall be lawful for any mutual insurance company, established in conformity with the provisions of this act, to unite a cash capital to any extent, as an additional security to its members, over and above their cash premiums and premium notes; *Provided*, That such cash capital shall not be less than thirty thousand dollars, and which additional cash capital shall be loaned and vested as provided in the eighth section of this act; and the company may allow an interest on such cash capital, and a participation in its profits, and prescribe the liability of the owner or owners thereof to share in the losses of the company, and such cash capital shall be liable as the capital stock of the company in the payment of its debts; *Provided*, That such cash capital shall in all cases be paid in at the organization of the company, and satisfactory evidence of that fact furnished to the Superintendent of the Insurance Department. (*Ibid*, § 14.)

**35.** Any existing joint-stock fire insurance company, and any company formed under this law, may (the written consent of the holders of three-fourths in amount of the stock first being had) permit the insured to participate in the profits of the business of such company, and provide how far any scrip, issued to the insured for such profits, shall be liable for the losses to be sustained; and any company so doing, whenever an amount not less than one hundred thousand dollars has been accumulated and scrip so issued therefor, may, with the written consent of the holders of three-fourths in amount of the stock, pay off and cancel an amount of the original cash capital equal to one-half of the accumulated profits, and so may continue from time to time until the whole amount of the original cash capital is paid off; *Provided*, That before any portion of such capital stock shall be so paid off, proof shall be exhibited to the said Superintendent that an amount of accumulated profits has been realized, scrip issued therefor, and investment made thereof, pursuant to the provisions of the eighth section of this act, at least equal to double the amount so desired to be paid off and canceled, and the said Superintendent shall also first certify that he is satisfied with such proof. (*Ibid*, § 14.)

**36.** Every fire and inland navigation insurance company hereafter organized shall, if it be a mutual company, embody the word "mutual" in its title, which shall appear on the first page of every policy and renewal receipt; and every company doing business as a cash stock company shall, upon the face of its policy in some suitable manner, express that such policy is a stock policy. (*Ibid*, § 15.)

**37.** Suits at law may be maintained by any corporation, formed under this act, against any of its members or stockholders for any cause relating to the business of such corporation; also suits at law may be prosecuted and maintained by any member or stockholder against such corporation for any losses which may have accrued, if payment is withheld more than thirty days after such losses may have become due; and any member or stockholder, not individually a party to such suits, may be a witness therein. (*Ibid*, § 16.)

**38.** The trustees and corporators of any company organized under this act, and those entitled to a participation of the profits of such company, shall be jointly and severally liable for all debts or responsibilities of such company, until the whole amount of the capital of such company shall have been paid in and a certificate thereof recorded, as herein before provided. Notes taken in advance of premiums under this act, are not to be considered debts of the com-



pany in determining whether a company is insolvent, but are to be regarded as assets of the company. (*Ibid*, § 17.)

**39.** Any existing joint-stock fire insurance company heretofore incorporated under the laws of this State, and any company organized under this act, having a capital of at least one hundred and fifty thousand dollars, may, without increasing its capital at any time, within two years previous to the termination of its charter, after giving notice, at least once a week for six weeks successively in a newspaper published in the county where such company is located, of such intention, and with a declaration, under its corporate seal, signed by the president and two-thirds of its directors, of their desire for such extension, extend the term of its original charter to the time specified in the twenty-sixth section of this act by altering and amending the same so as to accord with the provisions of this act, and filing a copy of such amended charter, with the declaration aforesaid, in the office of the Superintendent of the Insurance Department, whereupon the same proceedings shall be had as are required in the tenth section of this act; and any mutual insurance company, heretofore incorporated or organized under any of the laws of this State, having surplus assets aside from premium and stock notes, sufficient to reinsure all its outstanding risks, after having given notice once a week for six weeks of their intention and of the meeting hereinafter provided for in the State paper, and in a newspaper published in the county where such company is located, may, with the consent of two-thirds of the corporators or members present at any regular annual meeting, or at any special meeting duly called for the purpose, or with the consent in writing of two-thirds of the corporators or members of such company and the consent also of three-fourths of the trustees or directors, unless otherwise provided in the charter, become a joint-stock company, by conforming its charter to and otherwise proceeding in accordance with this act, and every member of such company, on the day of said annual or special meeting, or the date of said written consent, shall be entitle to priority in subscribing to the capital stock of said company, for one month after the opening of the books of subscription to such capital stock, in proportion to the amount of cash premiums paid in by such members on unexpired risks in force on the day of said annual or special meeting, or the date of said written consent; and every company so extended or changed, shall come under provisions of this act, in the same manner as if it had been incorporated originally under this act. Every mutual insurance company heretofore incorporated under the laws of this State, and doing business with a capital, in premium notes, of at least fifty thousand dollars, may, at any time, within two years previous to the termination of its charter, without increasing its capital, after giving notice, at least once a week for six weeks successively, in a newspaper published in the county where such company is located, of such intention, and with a declaration, under its corporate seal, signed by its president and two-thirds of its directors, of their desire for such extension, extend the term of its original charter to the time specified in the twenty-sixth section of this act, by altering and amending the same so as to accord with the provisions of this act, and filing a copy of such amended charter, with the declaration aforesaid, in the office of the Superintendent of the Insurance Department, whereupon the same proceedings shall be had as are required in the tenth section of this act, except as to its capital, which shall be certified to

be in accordance with the provisions of this section, applicable to the reorganization of mutual insurance companies. Every mutual insurance company so extended shall, except as to the amount of its capital, come under the provisions of this act, in the same manner as if it had been incorporated originally under this act. (*Ibid*, § 18, as amended by the laws of 1854, chap. 369, § 2, and by the laws of 1862, chap. 367, § 4.)

**40.** Any existing fire insurance company, and any company formed under this law, may at any time, with the written consent of the Superintendent of the Insurance Department, increase the amount of its capital stock, change its name, or avail itself of any powers conferred by the provisions of this act or any amendments thereto, after notice given once a week for six weeks in the State paper, and in any newspaper published in the county where such company is located, of such intentions, with the written consent of three-fourths, in amount, of its stockholders, unless otherwise provided in its charter, or, if a mutual company, with the unanimous consent of its trustees, unless otherwise provided in its charter, by altering or amending its charter in this respect, and filing such written consent of said Superintendent, a copy of its charter, so amended, together with a declaration under its corporate seal, signed by its president and directors, of their desire so to do, with such written consent of three-fourths, in amount, of its stockholders or the unanimous consent of the trustees as aforesaid to such increase, change of name or acquisition of such additional powers, in the office of the said Superintendent, and upon the same proceedings being had as are required by the tenth section of this act. And whenever any company formed under this law shall have accumulated, and be in possession of, a fund in addition to the amount of its capital stock, and all actual outstanding liabilities in excess of one-half of the amount of all premiums on risks not terminated, such company may increase its capital stock from such fund; and distribute said increase *pro rata* to the stockholders of such company; *Provided, always*, That such increase shall be equal to at least twenty-five per cent. of the original capital stock of said company, and shall have been approved by the Superintendent of the Insurance Department, and authorized by at least three-fourths of the Board of Directors of said company, and provided, also, that any company may hereafter make and declare a dividend, as provided by the provisions of the general insurance act. (*Ibid*, § 19, as amended by laws of 1870, chap. 476, § 1, and by laws of 1875, chap. 208, § 1.)

**41.** Such companies as may have been incorporated or extended under the "Act to provide for the incorporation of insurance companies," passed April 10, 1849, are hereby brought under all the provisions of this act, except that their capitals may continue of the amounts named in their respective charters during the existing term thereof, and are also entitled to all the privileges granted by said charters. (*Ibid*, § 20.)

**42.** All companies incorporated or extended under this act shall be deemed and taken to be bodies corporate and politic, in fact and in name, and shall be subject to all the provisions of the Revised Statutes, and acts supplemental thereto, in relation to corporations so far as the same are applicable. (*Ibid*, § 21.)

**43.** It shall be the duty of the president or vice-president and secretary of each company organized under this act, or incorporated

under any law of this State, annually, on the first day of January, or within one month thereafter, to prepare, under their own oath, and deposit in the office of the Superintendent of the Insurance Department, a statement of the condition of such company on the thirty-first day of December then next preceding, exhibiting the following facts and items, in the following form, namely:

*First.*—The amount of the capital stock of the company.

*Second.*—The property or assets held by the company, specifying:

1. The value, or as nearly as may be, of the real estate held by such company.

2. The amount of cash on hand and deposited in banks to the credit of the company, specifying in what banks the same are deposited

3. The amount of cash in the hands of agents and in course of transmission.

4. The amount of loans secured by bonds and mortgages, constituting the first lien on real estate, on which there shall be less than one year's interest due or owing.

5. The amount of loans on which interest shall not have been paid within one year previous to such statement.

6. The amount due the company on which judgments have been obtained.

7. The amount of stocks of this State, of the United States, of any incorporated city of this State, and of any other stocks owned by the company, specifying the amount, number of shares, and par and market value of each kind of stock.

8. The amount of stocks held thereby as collateral security for loans, with the amount loaned on each kind of stock, its par and the market value.

9. The amount of assessments on stock or premium notes paid and unpaid.

10. The amount of interest actually due and unpaid.

11. The amount of premium notes on hand on which policies are issued.

*Third.*—The liabilities of such company, specifying:

1. The amount of losses due and yet unpaid.

2. The amount of claims for losses resisted by the company.

3. The amount of losses incurred during the year, including those claimed and not yet due, and of those reported to the company upon which no action has been taken.

4. The amount of dividends declared and due, and remaining unpaid.

5. The amount of dividends, either cash or scrip, declared but not yet due.

6. The amount of money borrowed and security given for the payment thereof.

7. The amount of all other existing claims against the company.

*Fourth.*—The income of the company during the preceding year, specifying:

1. The amount of cash premiums received.

2. The amount of notes received for premiums.

3. The amount of interest money received.

4. The amount of income received from other sources.

*Fifth.*—The expenditures during the preceding year, specifying:

1. The amount of losses paid during the year, stating how much of the same accrued prior and how much subsequent to the date of the preceding statement, and the amount at which such losses were estimated in such preceding statement.

- 2 The amount of dividends paid during the year.

3. The amount of expenses paid during the year, including commissions and fees to agents and officers of the company.

4. The amount paid in taxes.

5. The amount of all other payments and expenditures.

The Superintendent of the Insurance Department is hereby authorized and empowered to address any inquiries to any insurance company, or the secretary thereof, in relation to its doings or condition, or any other matter connected with its transactions, and it shall be the duty of any company so addressed to promptly reply in writing to any such inquiries.

The statement of any company, the capital of which is composed, in whole or in part, of notes shall, in addition to the foregoing, exhibit the amount of notes originally forming the capital, and also what proportion of said notes is still held by such company and considered capital. The statement herein provided for shall be in lieu of any or all statements now required by any existing law or provision. Every fire insurance company organized under any law of this State failing to make and deposit such statement or to reply to any inquiry of the said Superintendent, shall be subject to the penalty of five hundred dollars; and an additional five hundred dollars for every month that such company shall continue thereafter to transact any business of insurance.

It shall be the duty of the Superintendent of the Insurance Department to cause to be prepared and furnished to each of the companies, and to the attorneys of companies incorporated by other States and foreign governments, printed forms of the statements required by this act; and he may, from time to time, make such changes in the forms of such statements as shall seem to him best adapted to elicit from the companies a true exhibit of their condition in respect to the several points herein before enumerated.

It shall be the duty of the Superintendent of the Insurance Department to cause the information contained in the statements required by this section to be arranged in a tabular form, and prepare the same in a single document for printing, which he shall communicate to the legislature annually. (*Ibid*, § 22, as amended by laws of 1854, chap. 369, § 4.)

**44.** It shall not be lawful for any fire insurance company, association, or partnership, incorporated by or organized under the laws of any other State of the United States, or any foreign government, directly or indirectly, to take risks or transact any business of insurance in this State, unless possessed of the amount of actual capital required of similar companies formed under the provisions of this act; and any such company desiring to transact any such business, as aforesaid, by an agent or agents in this State, shall first appoint an attorney in this State on whom process of law can be served, and file in the office of the Superintendent of the Insurance Department a certified copy of the vote or resolution of the directors appointing such attorney, which appointment shall continue until another attorney be substituted; in case any such insurance company shall cease to transact business in this State, according to the laws thereof, the agents last designated or acting as such for such



corporation, shall be deemed to continue agents for such corporation for the purpose of serving process for commencing actions upon any policy or liability issued or contracted while such corporation transacted business in this State, and service of such process for the causes aforesaid upon any such agent, shall be deemed a valid personal service upon such corporation; and also a certified copy of their charter or deed of settlement, together with a statement, under the oath of the president or vice-president and other chief officer and secretary of the company, for which he or they may act, stating the name of the company and place where located, the amount of its capital, with a detailed statement of its assets, showing the amount of cash on hand, in bank, or in the hands of agents; the amount of real estate, and how much the same is incumbered by mortgage; the number of shares of stock of every kind owned by the company, the par and market value of the same; amount loaned on bond and mortgage; the amount loaned on other security, stating the kind, and the amount loaned on each, and the estimated value of the whole amount of such securities; any other assets or property of the company; also stating the indebtedness of the company; the amount of losses adjusted and unpaid, the amount incurred and in process of adjustment, the amount resisted by the company as illegal and fraudulent, and any other claims existing against the company; also a copy of the last annual report, if any, made under any law of the State by which such company was incorporated; and no agent shall be allowed to transact business for any company (nor shall any agent or broker be allowed to negotiate for or place any risk with any company whose capital is impaired to the extent of twenty per cent. thereof, while such deficiency shall continue; and any company incorporated by or organized under any foreign government, shall, in addition to the foregoing, deposit with the Superintendent of the Insurance Department, for the benefit and security of policy-holders residing in the United States, a sum not less than two hundred thousand dollars in stock of the United States or the State of New York, in all cases to be, or to be made to be, equal to a stock producing six per cent. per annum, said stocks not to be received by said Superintendent at a rate above their par value, or above their current market value; or in bonds and mortgages on improved unincumbered real estate in the State of New York, worth fifty per cent. more than the amount loaned thereon; or in such stocks and securities as now are or which may hereafter be receivable by the Bank Department as security for circulating notes. The stocks and securities so deposited may be exchanged from time to time for other securities, receivable as aforesaid, and so long as the company so depositing shall continue solvent and comply with the laws of this State, may be permitted by the said Superintendent to collect the interest or dividends on said deposit. The said deposits shall be in lieu of the investments in the name of trustees, as heretofore required, and upon its being duly made, either by the transfer of the trust funds, or otherwise, the trustees shall thereby be discharged from all liability; and where a deposit is made of bonds and mortgages, accompanied by full abstracts of title and searches, the fees for an examination of title by counsel to be paid by the party making the deposit shall not exceed twenty dollars for each mortgage; and the fees for an appraisal of property shall be five dollars to each appraiser, not exceeding two, besides expenses for each mortgage. Nor shall it be lawful for any agent

or agents to act for any company or companies referred to in this section, directly or indirectly, in taking risks, or transacting the business of fire or inland navigation insurance in this State, without procuring from the Superintendent of the Insurance Department a certificate of authority stating that such company has complied with all the requisitions of this act which apply to such companies, and the name of the attorney appointed to act for such company. A certified copy of such certificate of authority, with statement, must be filed by the agent in the office of the Clerk of every county where such company has agents, and shall be published in the paper in which the State notices are required to be inserted, four successive times after the filing of such statement, as aforesaid; and within thirty days thereafter proof of such publication, by the affidavit of the publisher of such newspaper, his foreman or clerk, shall be filed in the office of the said Superintendent. The statements and evidences of investments required by this section shall be renewed from year to year in such manner and form as may be required by said Superintendent, with an additional statement of the amount of premiums received and losses incurred in this State during the preceding year, so long as such agency continues; and the said Superintendent, on being satisfied that the capital, securities and investments remain secure, as hereinbefore provided, shall furnish a renewal of his certificate, as aforesaid, and the agent or agents obtaining such certificate, shall file a certified copy of the same in the office of the Clerk of the county in which such agency shall be established, within the month of January. But any company organized under or incorporated by any foreign government may furnish and file such annual statements and evidences in the month of January, in each year, made out for the year ending on the preceding thirtieth day of June, if accompanied, also, by an annual supplementary statement, duly verified by the attorney or general agent of the company in this State, showing the amount of risks written, premiums received, losses sustained, and taxes paid in this State for the year ending on the preceding thirty-first day of December; said supplementary statement shall also contain a description of the investments of such company in this country, and such other information as may be required by the said Superintendent. (Whenever, by the provisions of this section, it shall be unlawful for any fire insurance company, association, or partnership herein specified, to take risks or transact the business of fire insurance within this State, through agents, or otherwise, it shall be likewise unlawful for any broker or brokers, or other persons acting for persons, firms, or corporations, in this State or elsewhere, to negotiate for or place risks in any such insurance company, or in any way or manner, aid such persons, firms or corporations in effecting such unauthorized insurances.) Any violation of any of the provisions of this section shall subject the party violating to a penalty of five hundred dollars for each violation, and of the additional sum of one hundred dollars for each month during which any such agent shall neglect to make such publication, or to file such affidavits or statements as are herein required. Every agent of any fire insurance company shall, in all advertisements of such agency, publish the location of the company, giving the name of the city, town or village in which the company is located, and the State or government under the laws of which it is organized. The term agent or agents, used in this section, shall include an acknowledged agent

or surveyor, or any other person or persons who shall, in any manner, aid in transacting the insurance business of any insurance company not incorporated by the laws of this State (and the term broker or brokers, also used in this section, is hereby declared to include all persons and firms whose business, in whole or in part, it is to negotiate for and place risks, deliver the policies covering the same, and collect the premiums therefor). The provisions of this section shall apply to all foreign companies, partnerships, associations and individuals, whether incorporated or not. (*Ibid*, § 23, *as amended by laws of 1862, chap. 367, § 5, and by laws of 1875, chap. 555, § 1.*)

**45.** Any insurance company incorporated by or organized under the laws of the Dominion of Canada, for the transaction of the business of fire and inland navigation insurance, may deposit with the Superintendent of the Insurance Department, for the benefit and security of policy-holders residing in the United States, a sum not less than two hundred thousand dollars, in stocks or bonds of the Dominion of Canada, or in stocks or bonds of the United States, or of the State of New York. If any securities, other than those above-named, are offered as a deposit, they may be accepted at such valuation and on such conditions as the Superintendent of the Insurance Department may direct; and if the market value of any of the securities which have been deposited by any company shall decline below that at which they were deposited, the Superintendent of the Insurance Department may call upon the company to make a further deposit, so that the market value of all the securities deposited by any company shall be equal to the amount which it is required to deposit. But such company shall, in all other respects, be subject to and comply with all the provisions of existing laws of this State relative to insurance companies incorporated by or organized under any foreign government transacting the business of fire and inland navigation insurance within this State. (*Laws of 1874, chap. 331, § 1.*)

**46.** All foreign insurance companies, associations, corporations, partnerships and individuals, transacting the business of fire, marine, or life insurance, or any other kind of insurance in this State, shall make annual statements of their condition and affairs to the Insurance Department, in the same manner and in the same form as similar companies organized under the laws of this State. (*Laws of 1861, chap. 334, § 1.*)

**47.** In case of neglect or refusal to make such annual statement as aforesaid, all persons acting in this State as agents or otherwise in transacting the business of insurance for said companies, corporations, associations, partnerships or individuals, shall be subject to the same penalties provided by law in case of the failure of any insurance company, organized under the laws of this State, to make an annual statement as now provided by law. (*Ibid*, § 2.)

**48.** Foreign insurance companies shall, hereafter, be required to make and file their annual statements on the 1st day of June in each year, or within thirty days thereafter, made out for the year ending on the preceding thirty-first day of December; the supplementary annual statement of their business and affairs in the United States, shall continue to be filed in the month of January in each year, made out for the year ending on the thirty-first day of December, immediately preceding. (*Laws of 1865, chap. 199, § 2, as amended by laws of 1867, chap. 709, § 1.*)

**49.** It shall be the duty of the Superintendent of the Insurance Department, whenever he shall deem it expedient so to do, to appoint one or more persons, not officers of any fire insurance company doing business in this State, to examine into the affairs of any fire insurance company incorporated in this State, or doing business by its agents in this State; and it shall be the duty of the officers or agents of any such company doing business in this State to cause their books to be opened for the inspection of the person or persons so appointed, and otherwise to facilitate such examination so far as it may be in their power to do; and for that purpose the said Superintendent, or person or persons so appointed by him, shall have power to examine, under oath, the officers and agents of any company relative to the business of said company; and whenever the said Superintendent shall deem it for the interest of the public so to do, he shall publish the result of such investigation in one or more papers in this State; and whenever it shall appear to the said Superintendent, from such examination, that the assets of any company incorporated in this State are insufficient to justify the continuance in business of any such company, he may direct the officers thereof to require the stockholders to pay in the amount of such deficiency within such period as he may designate in such requisition, or he shall communicate the fact to the Attorney-General, whose duty it shall then become to apply to the Supreme Court for an order requiring them to show cause why the business of such company should not be closed, and the court shall thereupon proceed to hear the allegations and proofs of the respective parties; and in case it shall appear to the satisfaction of said court that the assets and funds of said company are not sufficient, as aforesaid, or that the interests of the public so require, the said court shall decree a dissolution of said company and a distribution of its effects. The Supreme Court shall have power to refer the application of the Attorney-General to a referee, to inquire into and report upon the facts stated therein. Any company, receiving the aforesaid requisition from the said Superintendent, shall forthwith call upon its stockholders for such amounts as will make its capital equal to the amount fixed by the charter of said company; and in case any stockholder of such company shall refuse or neglect to pay the amount so called for, after notice personally given or by advertisement, in such time and manner as the said Superintendent shall approve, it shall be lawful for the said company to require the return of the original certificate of stock held by such stockholder, and in lieu thereof to issue new certificates for such number of shares as the said stockholder may be entitled to in the proportion that the ascertained value of the funds of the said company may be found to bear to the original capital of the said company; the value of such shares for which new certificates shall be issued to be ascertained under the direction of the said Superintendent, and the company paying for the fractional parts of shares; and it shall be lawful for the directors of such company to create new stock and dispose of the same, and to issue new certificates therefor, to an amount sufficient to make up the original capital of the company. And it is hereby declared that, in the event of any additional losses accruing upon new risks, taken after the expiration of the period limited by the said Superintendent in the aforesaid requisition for the filling up of the deficiency in the capital of such company, and before said deficiency shall have been made up, the



directors shall be individually liable to the extent thereof. And if, upon such examination, it shall appear to the said Superintendent that the assets of any company chartered on the plan of mutual insurance under this act are insufficient to justify the continuance of such company in business it shall be his duty to proceed in relation to such company in the same manner as is herein required in regard to joint stock companies; and the trustees or directors of such company are hereby made personally liable for any losses which may be sustained upon risks taken after the expiration of the period limited by the said Superintendent for filling up the deficiency in the capital, and before such deficiency shall have been made up. Any transfer of the stock of any company organized under this act, made during the pending of any such investigation, shall not release the party making the transfer from his liability for losses which may have accrued previous to the transfer. And whenever it shall appear to the said Superintendent, from the report of the person or persons appointed by him, that the affairs of any company not incorporated by the laws of this State are in an unsound condition, he shall revoke the certificates granted in behalf of such company, and shall cause a notification thereof to be published in the State paper for four weeks; and the agent or agents of such company is, after such notice, required to discontinue the issuing of any new policy and the renewal of any previously issued. (*Laws of 1853, chap. 466, § 24.*)

**50.** It shall be the duty of the Superintendent of the Insurance Department to make the examination into the affairs of any fire insurance company doing business in this State, in the manner authorized by section twenty-four of the act of which this is amendatory, whenever any stockholder or creditor of any such company shall, by a declaration subscribed and sworn to by him, notify the said Superintendent that, from facts within the knowledge of the person making such declaration, he believes that the condition of such insurance company does not justify its continuance in business. Such examination may also be made without any such declaration whenever the said Superintendent shall deem it expedient, and the Supreme Court shall have power, after any such examination shall have been made in either of the cases mentioned in said section twenty-four, to appoint a receiver of its property and effects, and no stockholder or creditor, unless with the consent of such company by a vote of its board of directors at a meeting called for the purpose, shall have the right to maintain an action for the dissolution of any such company, or to apply for the appointment of a receiver of its property and effects until after notification to the said Superintendent by such creditor or stockholder as hereinbefore provided, the said Superintendent of the Insurance Department shall have refused or neglected for the space of ten days from the filing of such notice, to make the examination authorized by said section twenty-four of the act of which this is amendatory. (*Laws of 1873, chap. 851, § 2.*)

**51.** Every penalty provided for by this act (incurred outside of the limits of the city and county of New York) shall be sued for and recovered in the name of the People by the District Attorney of the county in which the company or the agent or agents so violating shall be situated (or in which the act in violation was committed or suffered), and one-half of said penalty when recovered shall be paid into the treasury of said county, and the other half to

the informer of such violation. Such penalties may also be sued for and recovered in the name of the People by the Attorney-General, and when sued for and collected by him shall be paid into the State treasury. (And every penalty provided for by this act when incurred within the limits of the city and county of New York shall go and be paid to the informer of such violation, who on the giving, approval, and filing of the bond hereinafter mentioned, may sue for and recover such penalty in the name of the People of this State on the relation of such informer; and every such suit or action shall be deemed a private suit or action and which may be discontinued and the relator be nonsuited therein as in private actions, the said relator being liable for the costs thereof in cases where the defendant succeeds in the action; and in such cases judgment shall be entered against such relator for costs in the same manner as if the relator was the nominal plaintiff; and in all cases wherein judgment is obtained against the party prosecuted, the judgment may be canceled and discharged by the relator, or the attorney for the relator, in the same manner as if such relator was the nominal plaintiff. Any citizen of this State or body corporate created by or under the laws of this State may be an informer, and shall be competent to act and stand as relator in any action for a penalty or penalties incurred under this act within the limits of the city and county of New York, on filing in the office of the clerk of the court in which such action is to be prosecuted a bond executed by one or more sureties to the defendant in such action in the penalty of five hundred dollars, to be approved by a judge or justice of said court, conditioned to pay all costs that may be recovered in such action against such relator in case the party prosecuted succeeds in the action, the sureties in which shall be residents of the city and county of New York and freeholders, and shall acknowledge the same before an officer authorized to take proof and acknowledgment of deeds, a copy of which bond shall be served on the party prosecuted with the summons in such action.) In case of the non-payment of any of the penalties provided for in this act the party offending shall be liable to imprisonment for a period not exceeding six months in the discretion of any court having cognizance thereof. (*Laws of 1853, chap. 466, § 25, as amended by laws of 1862, chap. 367, § 5, and by laws of 1875, chap. 555, § 2.*)

**52.** All companies incorporated or extended under this act may provide, in their charters, for not more than thirty years' duration; but the Legislature may at any time alter, amend, or repeal this act, and provide for the closing up of the business and affairs of any company formed under it. Nothing herein contained shall be construed to prevent subsequent extensions of the charters of companies organized or extended under this act. (*Ibid, § 26.*)

**53.** Every County Clerk shall demand and receive, for every paper filed in his office, under this act, the sum of ten cents, to be accounted for and paid over to the county treasury, as provided by law with regard to other fees. (*Ibid, § 27, as modified by laws of 1859, chap. 366, § 7.*)

**54.** So much of the act entitled "An act to provide for the incorporation of insurance companies," passed April 10, 1849, as relates to fire and inland navigation insurance, is hereby repealed; but such repeal shall not affect or apply to any company or association which, at the date of the passage of the said act of June 25, 1853, had filed in the office of the Secretary of State the declaration provided

for by the third section of the aforesaid act of April 10, 1849. (*Ibid*, § 28, as amended by laws of 1853, chap. 528, § 1; see Session laws of 1849, chap. 308, for the act of 1849, the provisions of which are applicable to the companies incorporated thereunder, as provided in the above section.)

**55.** Any persons who have heretofore filed a declaration or commenced the publication of a notice of their intentions to form any joint stock fire insurance company, under the act entitled "An act to provide for the incorporation of insurance companies," passed April 10, 1849, may proceed to organize such companies under the act entitled "An act to provide for the incorporation of fire insurance companies," passed June 25, 1853, without filing any new declaration of intention or publishing any new notice. (*Ibid*, chap. 528, § 2.)

**56.** Any fire or fire and marine insurance company, chartered by this State, may have a lien by passing a by-law to that effect upon the stock or certificate of profits owned by any member for any debt hereafter to become due the said company for premiums, by stating that the said stock is subject to any such lien upon the certificate of stock or profits, and such lien may be waived in writing by the consent of the president of said company upon the transfer of any such stock. (*Laws of 1862, chap. 367, § 6.*)

**57.** Whenever it shall appear to the Superintendent of the Insurance Department, from an examination made by him in the manner prescribed by law, that the capital stock of any joint stock fire or marine insurance company organized pursuant to law, is impaired to an amount exceeding twenty-five per cent. of such capital, and he shall be of the opinion that the interests of the public will not be prejudiced by permitting such company to continue business with a reduced capital, it shall be lawful for such company, with the permission of the said Superintendent, to reduce its capital stock, and the par value of the shares thereof, to such amount as the said Superintendent may, under his hand and official seal, certify to be proper, and as shall, in his opinion, be justified by the assets and property of such company; *Provided*, That, in fixing such reduced capital, no sum exceeding twenty-five thousand dollars shall be deducted from the assets and property on hand, which shall be retained as surplus assets; *and Provided*, That no part of such assets and property shall be distributed to the stockholders; *and Provided, further*, That the capital stock of any such company shall not be reduced to an amount less than the sum now required by law for the organization of a new company, under the general insurance laws, for the transaction of business at the place where such company is located, and of the kind which such company is authorized to transact. (*Laws of 1867, chap. 91, § 1.*)

**58.** No reduction of the capital of any such company shall be made, except upon a resolution of its board of directors, approved by at least two-thirds of the directors, and certified under its corporate seal, signed by the president and at least two-thirds of the directors, and proved or acknowledged in the manner required by law for the proof or acknowledgment of conveyances, which certificate shall be filed in the office of the said Superintendent before any action shall be had by him thereon. (*Ibid*, § 2.)

**59.** The Superintendent of the Insurance Department, in case he shall permit any such company to reduce its capital in the manner provided in this act, shall execute the certificate required by the

first section, in duplicate, and deliver one of such certificates to the officers of such company, who shall forthwith file the same with the clerk of the county in which such company is located, and the other of such certificates shall be filed in the office of said Superintendent. (*Ibid*, § 3.)

**60.** Such company, upon filing the certificate with the County Clerk, as required by the third section of this act, shall, with such reduced capital, possess the same rights and be subject to the same liabilities that it possessed or was subject to at the time of the reduction of its capital, and the charter of such company shall be deemed to be amended in respect to the amount of capital and the par value of the shares so as to conform to such reduction. (*Ibid*, § 4.)

**61.** It shall be lawful for the said company to require the return of the original certificate of stock held by each stockholder, and in lieu thereof to issue new certificates for such number of shares as the said stockholder may be entitled to, in the proportion that the reduced capital may be found to bear to the original capital of the company. (*Ibid*, § 5.)

**62.** It shall be lawful for any such company, after its capital shall be so reduced as aforesaid, to increase its capital stock, in the mode prescribed by the nineteenth section of chapter four hundred and sixty-six of the laws of eighteen hundred and fifty-three. (*Ibid*, § 6.)

**63.** It shall be the duty of all receivers and trustees of insurance companies, during the month of January of each year, and at any other time when required by the Superintendent of the Insurance Department, to make and file annual and other statements of their assets and liabilities, and of their income and expenditures, in the same manner and form, and under the same penalties, as the officers of such companies are now required by law to make annual and other statements to the Insurance Department. (*Ibid*, chap. 709, § 2.)

**64.** No person, association, or company of persons residing in any foreign country, and no incorporation established in a foreign country, nor any person in behalf of them, or any of them, shall, directly or indirectly, make any contract of insurance, or by way of insurance, against loss or injury by fire, upon any house, building, or goods situated or being in this State. (*Laws of 1814, chap. 49, § 1; and Revised Statutes, part I., chap. 20, title 21, § 1.*)

**65.** Whoever shall offend against the foregoing provision, shall forfeit one thousand dollars, for the use of the poor of the county where such illegal contract shall be made.\* (*Ibid*, § 2.)

**66.** No foreign insurance company shall make any contract of insurance, of any kind or description, against loss or damage by fire or inland navigation risks, nor expose themselves to any such loss by any one risk or hazard for any greater amount in proportion to its capital, as determined by the provisions of this act, than companies organized under the laws of this State may do. (*Laws of 1871, chap. 888, § 1.*)

**67.** The capital of such foreign insurance company doing fire insurance business in this State, or any such company hereafter ad-

\* This law has never been repealed, but has practically been a dead letter since the passage of the first subsequent law admitting such companies to do business in the State.



mitted to such business in this State, shall, for all the purposes of this act and of the general insurance laws of this State, be the aggregate value of such sums or securities as such company shall have on deposit in the insurance and other departments of this State, and of the other States of the United States, for the benefit of policy-holders in any of such States or in the United States; and all bonds and mortgages for money loaned on real estate in this State or any State of the United States, provided such loans have been made in conformity with the laws of such State providing for the incorporation of insurance companies therein, and the investment of their capital, and all other assets and property in the United States, in which fire insurance companies organized under the laws of this State may, by the laws thereof, invest, provided such bonds and mortgages, assets and property, shall be vested in and held in the United States by trustees approved by the Superintendent of the Insurance Department of this State, and citizens of the United States, for the general benefit and security of all its policy-holders and creditors in the United States, after taking from such aggregate value the same deductions for losses, debts and liabilities in this and the other States of the United States, and for premiums upon risks therein not yet expired, as is authorized or required by the laws of this State, or the regulations of its Insurance Department with respect to fire insurance companies organized under the laws of this State. The said trustees are hereby authorized to invest in and hold and convey real estate to the same extent, and subject to the same restrictions, rules, and regulations to which companies incorporated in this State are subject. (*Ibid*, § 2.)

68. To determine the amount of such capital the agent or attorney of such foreign insurance company doing fire insurance business in this State shall, within four months after the passage of this act, and in the month of January of every year thereafter, render to him a detailed statement of the items making up the said capital, and of the deductions to be made therefrom, subscribed and verified by the oath of such agent or attorney, and said Superintendent shall have authority to make such examinations in respect to such assets and liabilities as he shall deem proper, and upon compliance with the requirements of this act it shall be his duty thereupon, and from year to year thereafter, to issue to such foreign insurance company a certificate of the amount of its so determined capital, and that the requirements of this act have been complied with, upon which capital it may transact business in this State, but subject to all the restrictions and limitations of the laws regulating fire insurance companies incorporated under the laws of this State. (*Ibid*, § 3.)

69. The trustees referred to in the second section of this act shall be appointed directly by the board of managers or directors of such foreign insurance company, and a duly certified copy of the vote or resolution by which they were appointed shall, together with a certified copy of the trust deed or instrument under which they are to act, be filed in the office of the Superintendent of the Insurance Department; and the said Superintendent shall have the same power to examine such trustees, or the agent or attorney of such company, under oath, and their assets, books and accounts, either in person or by one or more persons to be appointed by him, as by law he has as to the officers, agents, assets, books and accounts of any company authorized to do the fire insurance business in this

State. And if by such examination it shall appear that the net capital for which the last certificate shall be outstanding has been materially reduced, the Superintendent may call in such certificate and issue another correspondent with such reduced capital. (*Ibid*, § 4.)

**70.** No foreign insurance company, or any agent or attorney thereof, shall be admitted to transact the business of fire insurance in this State, or take risks, until in addition to all other requirements of the laws now in force in this State, such company shall comply with the provisions of this act, and receive the certificate of the Superintendent of the Insurance Department mentioned in the third section of this act. (*Ibid*, § 5.)

**71.** It shall not be lawful for any such foreign insurance company, their agent or attorney, directly or indirectly, to contract for or effect any reinsurance of any risk on property in this State, with any insurance company, corporation, association, partnership or individual, other than such as companies chartered by the State of New York may lawfully make reinsurance in. (*Ibid*, § 6.)

**72.** The capital of any foreign insurance company, so determined and certified, shall be subject to taxation the same as the capital of fire insurance companies organized under the laws of this State, to be levied, assessed and collected as prescribed by the laws of this State, at such place in this State as such foreign insurance company shall have its principal office. (*Ibid*, § 7.)

**73.** The affairs of every foreign insurance company doing fire insurance business in this State shall be subject to the same supervision and examination by the Superintendent of the Insurance Department as those of fire insurance companies organized under the laws of this State, as to the examination of its books, assets, accounts and general condition; and every foreign insurance company doing fire insurance business in this State, and its agents and trustees, shall at all times be subject to and be required to make the same statements, and to answer the same inquiries, and be subject to the same examinations, and in case of default therein, to the same penalties and liabilities as fire insurance companies organized under the laws of this State, or any of the officers thereof, are or may be liable to by the laws of this State or the regulations of its Insurance Department; and the said Superintendent is hereby authorized, whenever he shall deem it necessary, either in person or by a proper person or persons by him appointed, to repair to the general office of any such foreign insurance company, wherever the same may be, and make an investigation and examination of the affairs and condition of such company. The said Superintendent is hereby authorized to cancel and revoke the certificate of any foreign insurance company refusing or unreasonably neglecting to comply with any of the provisions of this act, or to allow the examination herein provided for to be made, and to prevent such company from doing business in this State. (*Ibid*, § 8.)

**74.** Any violation of any of the provisions of this act shall subject the party so violating to a penalty of five hundred dollars for each violation, which shall be sued for and recovered in the manner provided for in section twenty-five of "An act to provide for the incorporation of fire insurance companies," passed June twenty-five, eighteen hundred and fifty-three, and the amendments thereto, with the same liability to imprisonment in case of non-payment as therein provided. (*Ibid*, § 9.)

**75.** The term foreign insurance company, as used in this act, includes any company, corporation, association, partnership or individual of any foreign government doing fire insurance business in this State, whether incorporated or not. (*Ibid*, § 10.)

AN ACT TO PROVIDE SECURITY AGAINST EXTRAORDINARY CONFLAGRATIONS, AND FOR THE CREATION OF SAFETY FUNDS BY FIRE INSURANCE COMPANIES.

**76.** Hereafter it shall be lawful for any fire insurance company, organized under the laws of this State, to create the funds herein provided for, to be known and designated as the guaranty surplus fund and the special reserve fund, and to avail itself of the provisions of this act upon complying with the requirements thereof. (*Laws of 1874, chap. 189, § 1.*)

**77.** Any fire insurance company desiring to create such funds shall be and it is hereby authorized to do so, upon the adoption of a resolution by its board of directors at a regular meeting thereof, and filing with the Superintendent of the Insurance Department a copy thereof, declaring the desire and intention of such company to create such funds and to do business under the provisions of this act; and as soon after the filing of such copy of the resolution as convenient, the Superintendent shall make, or cause to be made, an examination of such company, and he shall make a certificate of the result thereof, which shall particularly set forth the amount of surplus funds held by such company at the date of such examination, which, under the provisions of this act, are to and may be equally divided between and be set apart to constitute said guaranty surplus and special reserve funds, which certificate shall be recorded in the Insurance Department; and from and after the date of the recording of such certificate, all the policies and renewals of policies issued by such company shall have printed thereon, by such company, a notice that the same are issued under and in pursuance of this act, referring to the same by its chapter, date and title; and such policies and renewals shall be deemed to have been issued and received subject to the provisions of this act. (*Ibid*, § 2.)

**78.** After the date mentioned in any such resolution so passed and filed, it shall not be lawful for such company to make, declare or pay, in any form, any dividend upon its capital stock, exceeding seven per cent. per annum, thereupon and upon the surplus funds to be formed hereunder, until after its guaranty surplus fund and its special reserve fund shall have together accumulated to an amount equal to its said capital stock, and the entire surplus profits of such company above such annual dividend of seven per cent. shall be equally divided between and be set apart to constitute the said guaranty surplus fund and the said special reserve fund, which said funds shall be held and used as hereinafter provided and not otherwise; and any company doing business under this act, which shall declare or pay any dividend contrary to the provisions herein contained, shall be liable to be proceeded against by the Attorney-General for its dissolution. (*Ibid*, § 3.)

**79.** Said guaranty surplus fund shall be held and invested by such company the same as its capital stock and surplus accumulation; and shall be liable and applicable in the same manner as the capital stock and surplus accumulation; and shall be liable and ap-

plicable in the same manner as the capital stock to the payment generally of the losses of such company. (*Ibid*, § 4.)

**80.** Said special reserve fund shall be invested according to existing laws relating to investments of capital by fire insurance companies, and shall be deposited from time to time as the same shall accumulate and be invested with the Superintendent of the Insurance Department, who shall permit the company depositing the same to change such deposits by substituting for those withdrawn others of equal amount and value, and to collect and receive the interests or dividends upon such securities as the same may accrue; and such special reserve fund shall be deemed a fund contributed by the stockholders to protect such company and its policy-holders other than claimants for losses already existing or then incurred, in case of such extraordinary conflagration or conflagrations as hereinafter mentioned; and said fund shall not be regarded as any part or portion of the assets in possession of said company, so as to be or render the same liable for any claim or claims for losses, by fire or otherwise, except as herein provided. (*Ibid*, § 5.)

**81.** In estimating the profit of any such company, for the purpose of making a division thereof, between such guaranty surplus fund and such special reserve fund, there shall be deducted from the gross assets of the company, including for this purpose the amount of the special reserve fund, the sum of the following items: First, the amount of all outstanding claims; second, an amount sufficient to meet the liability of such company for the unearned premiums upon its unexpired policies, which amount shall be at least equal to one-half of the premiums received on policies having less than one year to run from date of policy, and a pro rata proportion of the premiums received on policies having more than one year to run from date of policy, and shall be known as the reinsurance liability; third, the amount of its guaranty surplus fund and of its special reserve fund; fourth, the amount of the capital of the company; and fifth, interest at the rate of seven per cent. per annum upon the amount of the capital and of the said funds, for whatever time shall have elapsed since the last preceding cash dividend; and the balance shall constitute the net surplus of the company, subject to an equal division between the said funds, as herein provided. (*Ibid*, § 6.)

**82.** In the event of any extensive conflagration or conflagrations, whereby the claims upon such company shall exceed the amount of the capital stock, and of the guaranty surplus fund provided for by this act, the said company shall notify the Superintendent of the fact, who shall then make or cause to be made an examination of said company, and shall issue his certificate of the result, showing the amounts of capital, of guaranty surplus fund, of special reserve fund, of reinsurance liability and of other assets; and upon his issuing such certificate in duplicate, one copy to be given the company and one to be recorded in the Insurance Department, the said special reserve fund shall be immediately held to protect all policy-holders of such company other than such as are claimants upon it at the time, or such as become such claimants in consequence of such conflagration or conflagrations, and the amount of said special reserve fund, and an amount equal to the unearned premiums of such company, to be ascertained as hereinbefore provided, shall constitute the capital and assets of such company for the protection of policy-holders other than such claimants, and for



the further conduct of its business; and such official certificate of the Superintendent shall be binding and conclusive upon all parties interested in such company, whether as stockholders, creditors or policy-holders; and upon the payment to the claimants for losses or otherwise, existing at the time of, or caused by such general conflagration or conflagrations, of the amount to which they are respectively entitled, in proportion to their several claims, of the full sum of the capital of such company and of its guaranty surplus fund, and of its assets, excepting only such special reserve fund and an amount of its assets equal to the liability of the company for unearned premiums, as so certified by such Superintendent, such company shall be forever discharged from any and all further liability to such claimants, and to each of them. And the said Superintendent shall, after issuing his said certificate, upon the demand of such company, transfer to it all such securities as shall have been deposited with him by such company as such special reserve fund; and if the amount of such special reserve fund be less than fifty per cent. of the full amount of the capital of the company, a requisition shall be issued by the said Superintendent upon the stockholders, to make up such capital to that proportion of its full amount, in the manner now provided by law, in the case of companies with impaired capitals; and *Provided, further*, That any capital so impaired shall be made up to at least the sum of two hundred thousand dollars. And in case said company, after such requisition, shall fail to make up its capital to at least said amount of two hundred thousand dollars, as therein directed, said special reserve fund shall still be held as security, and liable for any and all losses occurring upon policies of such company after such conflagration or conflagrations. Such company shall, in its annual statement to the Insurance Department of this State, set forth the amount of such special reserve fund, and of its guaranty surplus fund. (*Ibid*, § 7.)

**83.** If, at any time after such special reserve fund shall have been accumulated by any company, it shall appear, upon examination by the said Superintendent, that the capital of such company has, in the absence of any such extensive conflagration, become impaired so as to cause him to order a call upon the stockholders to make up such impairment, the board of directors of such company may either comply with such order and require the necessary payment by the stockholders, or at their option they may apply for that purpose so much of said special reserve fund as will make such impairment good. No company doing business under this act shall insure any larger amount upon any single risk than is permitted by law to a company possessing the same amount of capital, irrespective of the funds hereby provided for. (*Ibid*, § 8.)

## MARINE INSURANCE COMPANIES AND AGENCIES.

**84.** Any number of persons, not less than thirteen in number, may associate and form an incorporated company for the following purposes, to wit:

To make insurance upon vessels, freights, goods, wares, merchandise, specie, bullion, jewels, profits, commissions, bank-notes, bills of exchange, and other evidences of debt, bottomry and respondentia interests, and to make all and every insurance appertaining to or connected with marine risks and risks of transporta-

tion and navigation. (*Laws of 1849, chap. 308, § 1, as modified by laws of 1853, chap. 463, § 22, and by laws of 1853, chap. 466, § 28, as amended by laws of 1853, chap. 528, § 1.*)

**85.** Any company organized under this act shall have power to make reinsurance of any risks taken by them respectively, and may make insurance upon any or all of the risks mentioned in the first section. (*Ibid, § 2, as modified by laws of 1853, chap. 463, § 22, by laws of 1853, chap. 466, § 28, and by laws of 1853, chap. 528, § 1.*)

**86.** Such persons shall file, in the office of the Superintendent of the Insurance Department, a declaration, signed by all the incorporators, expressing their intention to form a company for the purpose of transacting the business of insurance as expressed in the first section of this act, which declaration shall also comprise a copy of the charter proposed to be adopted by them, and shall publish a notice of such their intention, once in each week for at least six weeks, in a public newspaper in the county in which such insurance company is proposed to be located. (*Ibid, § 3, as modified by laws of 1853, chap. 463, § 22, by laws of 1853, chap. 466, § 28, by laws of 1853, chap. 528, § 1, and by laws of 1859, chap. 366.*)

**87.** It may and shall be lawful for the individuals associated for the purpose of organizing any company under this act, after having published the notice and filed their declaration and charter as required by the preceding section, to open books for subscription to the capital stock of the company so intended to be organized, and to keep the same open until the full amount specified in the charter is subscribed; or, in case the business of such company is proposed to be conducted on the plan of mutual insurance, then to open books to receive propositions, and enter into agreements in the manner and to the extent hereinafter specified. (*Ibid, § 4.*)

**88.** No joint stock company, organized for the purposes mentioned in this act, shall be organized in the city and county of New York, nor in the county of Kings, with a smaller capital than one hundred and fifty thousand dollars; nor in any other county in this State with a smaller capital than fifty thousand dollars; nor shall any company, formed for the purpose of doing the business of marine insurance, on the plan of mutual insurance, commence business, if located in the city of New York, or in the county of Kings, until agreements have been entered into for insurance with at least one hundred applicants, the premiums on which shall amount to three hundred thousand dollars, and notes have been received in advance for the premiums on such risks payable at the end of or within twelve months from the date thereof, which notes shall be considered a part of the capital stock, and shall be deemed valid, and shall be negotiable and collectable for the purpose of paying any losses which may accrue or otherwise; nor shall any mutual marine insurance company, in any other county in the State, commence business until agreements have been entered into for insurance, the premiums on which shall amount to one hundred thousand dollars, and the notes received therefor, payable as aforesaid, and which notes shall be liable for and used as aforesaid. (*Ibid, § 5, as modified by laws of 1853, chap. 463, § 22, by laws of 1853, chap. 466, § 28, and by laws of 1853, chap. 528, § 1.*)

**89.** It shall not be lawful for any company organized under this act to transact business unless possessed of capital or securities as hereinbefore mentioned; nor shall it be lawful for any agent or agents of insurance companies incorporated by other States, direct-

ly or indirectly, to take risks or transact any business of insurance in this State, without procuring a certificate of authority from the Superintendent of the Insurance Department of this State, and such agent or agents having procured a statement under the oath of the president or secretary of the company for which he or they may act; which statement shall show the amount of the capital of such company, the manner in which the same is invested, and shall also state the fact whether its capital is impaired, and, if so, how much; such statement shall be filed in the office of the County Clerk of the county where such agent resides, and shall be published in at least one newspaper, if a newspaper be therein published, at least six successive weeks after the filing of such statement as aforesaid; the first statement shall be filed in the month of January next, and such statement shall be procured annually and filed and published in each and every succeeding month of January thereafter as long as such agency continues, and no company incorporated by other States shall transact business in this State unless possessed of the amount of actual capital required of companies formed under the provisions of this act. Nor shall it be lawful for any agent or agents, hereafter to be appointed, of any company incorporated by any foreign government, other than the States of this Union, for the purpose of insurance, to transact the business of insurance in this State without procuring a certificate of authority from the Superintendent of the Insurance Department; such agent or agents having previously furnished evidence, to the satisfaction of the Superintendent of the Insurance Department of the State, that such company has invested in the stocks of this State, or of the United States, an amount equal to the amount of capital or security required by this act, and such stocks are held in trust by citizens of this State for the benefit and security of such as may effect insurance with him or them. And the agent or agents, furnishing satisfactory evidence as aforesaid, shall be entitled to a certificate thereof from the Superintendent of the Insurance Department aforesaid. The statements and evidences of investments required by this section shall be renewed from year to year, in the month of January in each year, and the Superintendent of the Insurance Department, on being satisfied that the capital securities and investments remain secure as at first, shall furnish a renewal of certificates as aforesaid; and the agent or agents obtaining such certificates shall file the same, together with a copy of the statements on which it was obtained or renewed, in the office of the Clerk of the County in which such agency shall be established, and shall cause the same to be published in at least one newspaper published in such county. Any violation of the provisions of this section shall subject the party violating to a penalty of five hundred dollars for each violation, which shall be sued for and recovered in the name of the people by the District Attorney of the county in which the agent or company so violating shall be situated, and the said penalty when recovered shall be paid into the treasury of said county; *Provided*, That all companies incorporated by any government other than the States of this Union, which may have appointed such agent or agents before the first day of March, one thousand eight hundred and forty-eight, may hereafter appoint a new agent or agents in the case of the death, resignation or removal of an agent or agents previously appointed. The term agent or agents used in this section shall include an acknowledged agent or surveyor, or any other



person or persons who shall in any manner aid in transacting the insurance business of an insurance company not incorporated by the laws of this State. (*Ibid*, § 7, as modified by laws of 1853, chap. 463, § 22, and by laws of 1859, chap. 366, §§ 3 and 8.)

**90.** All foreign insurance companies, associations, corporations, partnerships and individuals, transacting the business of fire, marine or life insurance, or any other kind of insurance in this State, shall make annual statements of their condition and affairs to the Insurance Department, in the same manner and in the same form as similar companies organized under the laws of this State. (*Laws of* 1861, chap. 334, § 1.)

**91.** In case of neglect or refusal to make such annual statement as aforesaid, all persons acting in this State as agents or otherwise in transacting the business of insurance for said companies, corporations, associations, partnership or individuals, shall be subject to the same penalties provided by law in case of the failure of any insurance company, organized under the laws of this State, to make an annual statement as now provided by law. (*Ibid*, § 2.)

**92.** Foreign insurance companies shall hereafter be required to make and file their annual statements on the first day of June in each year, or within thirty days thereafter, made out for the year ending on the preceding thirty-first day of December; the supplementary annual statements of their business and affairs in the United States shall continue to be filed in the month of January in each year, made out for the year ending on the thirty-first day of December, immediately preceding. (*Laws of* 1865, chap. 199, § 2, as amended by laws of 1867, chap. 709, § 1.)

**93.** It shall be lawful for any company organized under this act to invest its capital, or the funds accumulated by its business, or any part thereof, in bonds and mortgages on unincumbered real estate within the State of New York worth fifty per cent. more than the sum loaned thereon, and also in the stocks of this State or of the United States, and also in any or all stocks or bonds of either of the incorporated cities of this State, and which stocks or bonds shall be at or above par at the time of such investment, and to lend the same, or any part thereof, on the security of such stock or bonds; and any company organized for the purpose of marine insurance may, in addition to the foregoing, loan their funds on bottomry and respondentia, and change and reinvest the same as occasion may, from time to time, require; but any surplus accumulation over and above the capital stock of any such company may be invested in or loaned upon the pledge of the public stock of any one of the United States, or the stock, bonds, or other evidence of debt of any institution incorporated under the laws of this State, except their own stock: *Provided*, That the current market value of such corporate stocks, bonds, or other evidence of debt, shall be, at the time of the loan thereon, at least ten per cent. more than the sum so loaned thereon: *Provided, however*, That any permanent or reserved fund, established or created by such company, shall be invested in the same manner as capital stock is required to be, except that the restriction as to the securities being at par shall not apply thereto. (*Laws of* 1849, chap. 308, § 8, as amended by laws of 1857, chap. 469, § 1.)

**94.** No company organized by or under the provisions of this act shall be permitted to purchase, hold and convey real estate, excepting for the purposes and in the manner herein set forth, to wit:



1. Such as shall be requisite for its immediate accommodation in the transaction of its business; or,

2. Such as shall have been mortgaged to it in good faith by way of security for loans previously contracted, or for moneys due; or,

3. Such as shall have been conveyed to it in satisfaction of debts previously contracted in the course of its dealings; or,

4. Such as shall have been purchased at sales upon judgments, decrees or mortgages obtained or made for such debts; and it shall not be lawful for any company incorporated as aforesaid to purchase, hold or convey real estate in any other case or for any other purpose; and all such real estate as may be acquired as aforesaid, and which shall not be necessary for the accommodation of such company in the convenient transaction of its business, shall be sold and disposed of within five years after such company shall have acquired title to the same, and it shall not be lawful for such company to hold such real estate for a longer period than that above mentioned, unless the said company shall procure a certificate from the Superintendent of the Insurance Department that the interests of the company will suffer materially by a forced sale of such real estate, in which event the time for the sale may be extended to such time as the Superintendent of the Insurance Department shall direct in said certificate. (*Ibid*, § 9, as modified by laws of 1859, chap. 366, §§ 3 and 8.)

**95.** In addition to the foregoing provisions it shall be the duty of the corporators of any and every company organized under this act, to declare in the charter which is herein required to be filed, the mode and manner in which the corporate powers given under and by virtue of this act are to be exercised, the mode and manner of electing trustees or directors, a majority of whom shall be citizens of this State, and the filling of vacancies, the period for the commencement and termination of its fiscal year, together with the amount of capital to be employed in the transaction of its business. But any mutual company that heretofore has been, or hereafter may be organized under this act, may issue policies, providing that the assured in such policies shall not participate in the profits of such company, and that in lieu of scrip, the said company may stipulate for, and take a net premium, or may make a cash deduction from the premiums paid on such non-participating policies, though such mode and manner of doing business may not be declared in the charter of such company. (*Ibid*, § 10, as amended by laws of 1867, chap. 574, § 1.)

**96.** Any company organized under a special charter may avail itself of the privileges granted under the preceding section, anything in its charter contained to the contrary notwithstanding. (*Laws of 1867, chap 574, § 2.*)

**97.** The charter thus filed by the corporation shall be examined by the Attorney-General, and if found to be in accordance with the requirements of this act, and not inconsistent with the Constitution or laws of this State, he shall certify the same to the Superintendent of the Insurance Department of this State, and the said Superintendent shall thereupon cause an examination to be made either by himself or by three disinterested persons specially appointed by him for that purpose, who shall certify under oath that an amount equal at least to the amount specified in the fifth section of this act, if it be a stock company, has been paid in and is possessed by it in money, or in such stocks and bonds and mortgages as are required by the eighth section of this act; or if a

mutual company, that it has received and is in actual possession of the capital, premiums or engagements of insurance as the case may be, to the full extent required by the fifth section of this act; such certificates shall be filed in the office of the Superintendent of the Insurance Department, whose duty it shall then be to furnish the corporation with a certified copy of the charter and certificates aforesaid, which, upon being filed by them in the office of the Clerk of the county in which their company is to be located, shall be their authority to commence business and issue policies, and the same may be used in evidence for or against said corporation. (*Ibid*, § 11, as modified by laws of 1853, chap. 463, § 22, and by laws of 1859, chap. 366.)

**98.** The incorporators or the trustees or directors, as the case may be, of any company organized under the provisions of this act, shall have power to make such by-laws, not inconsistent with the constitution or laws of this State, as may be deemed necessary for the government of its officers and the conduct of its affairs. (*Ibid*, § 12.)

**99.** It shall be the duty of the president or vice-president and secretary of each marine insurance company incorporated by or organized under any law of this State, annually on the first day of January, or within one month thereafter, to prepare, under their own oath, and deposit in the office of the Insurance Department, a statement of the condition and affairs of such company, for the year ending on the thirty-first day of December then next preceding, exhibiting the total amount of premiums received and the total amount of losses paid and ascertained, including expenses during the year; also the amount of debts owing by the company at the date of the statement, and the amount of claims which then exist against the company for losses accrued, showing what amount of such claims for losses is payable on demand, what amount thereof is considered fair or legal, the payment of which has not then matured according to the contract, and what amount thereof is resisted on account of alleged fraud, or for which the company do not consider themselves legally liable; also a statement of the securities representing the capital stock and all the funds of the company, and also whether any of the securities held or owned by such company are considered bad or doubtful, and if so, specifying the amount of such securities and the gross amount of outstanding risks thereon; and exhibiting also the assets and liabilities of the company, its income and expenditures during the year, scrip issued and redeemed, and other miscellaneous items, in such form and manner as shall, from time to time, be prescribed by the Superintendent of the Insurance Department. The statement herein provided for shall be in lieu of all statements now required to be made or published, by any existing law or provision. The Superintendent of the Insurance Department may, from time to time, make such changes in the form of said annual statements as shall seem to him best adapted to elicit from the said companies a true exhibit of their condition, situation and affairs. It shall be the duty of the Superintendent of the Insurance Department to cause the information contained in such annual statements to be arranged and communicated to the legislature with his annual report. If, upon due examination, it shall appear to the Superintendent of the Insurance Department that the losses and expenses of any stock company during the year have exceeded the premiums, and in consequence

thereof the capital of such company has become deficient, or from any other cause has become impaired to the extent of twenty-five per cent., it shall be the duty of the said Superintendent of the Insurance Department to direct the officers of any such company, within sixty days, to proceed to wind up its business, unless within that time the stockholders thereof shall pay in the amount of such deficiency. Any company receiving such requisition from the Superintendent of the Insurance Department shall forthwith call upon its stockholders for such amounts as will make its capital equal to the amount fixed by the charter of the said company; and in case any stockholder of such company shall refuse or neglect to pay such call, after notice personally given, or by advertisement in such time and manner as the Superintendent of the Insurance Department shall approve, it shall be lawful for the said company to require the return of the original certificates of stock held by such stockholder, and in lieu thereof to issue new certificates for such number of shares as the said stockholder may be entitled to in the proportion that the ascertained value of the funds of the said company may be found to bear to the original capital of the said company; the value of such shares for which new certificates shall be issued to be ascertained under the direction of the Superintendent of the Insurance Department and the company paying for the fractional parts of shares; and it shall be lawful for the directors of said company to create new stock, and dispose of the same, and to issue new certificates therefor to an amount sufficient to make up the original capital of the company. And it is hereby declared that, in the event of any additional losses accruing upon new risks taken after the Superintendent of the Insurance Department shall have made the requisition aforesaid, and before the said deficiency shall have been made up, the directors shall be individually liable to the extent thereof. And if, upon due examination, it shall appear to the Superintendent of the Insurance Department that the losses and expenses of any company chartered on the plan of mutual insurance, under this act, shall, during the year, have exceeded the premiums, and in consequence thereof that the capital of the company, as required in its organization, has become deficient, or from any other cause has become impaired, it shall be the duty of the Superintendent of the Insurance Department to direct the officers of such mutual insurance companies to take the same proceedings as herein required to be taken in case of joint-stock companies; and, until such directions shall be complied with, the directors shall be personally liable to pay all damages occasioned by such neglect to any person or body corporate which may be injured thereby. Any transfer of the stock of any stock company organized under this act shall not release the party making the transfer from his liability which may have accrued previous to the transfer. (*Ibid.*, § 13; as amended by laws of 1864, chap. 425.)

**100.** It shall and may be lawful for any marine insurance company to be organized pursuant to the provisions of the said act hereby amended, to establish and maintain one or more agencies beyond the United States for the transaction of its lawful business, upon such terms and conditions as the said company may prescribe. (*Laws of 1852, chap. 123, § 1.*)

**101.** In case any such agency or agencies shall be established in Asia or Europe, the statement required by the thirteenth section of the said act hereby amended may be deferred for the space of



five months from and after the first day of January in each year, and when made it shall refer to the first day of January then next preceding. (*Ibid*, § 2.)

**102.** All fire-marine and life insurance companies now required, or which may hereafter be required, to make annual statements to the Insurance Department, for the year ending on the last day of December, are hereby authorized and empowered to change the date of the termination of their fiscal year to the thirty-first day of December; and all statements, reports, dividends, and balances, now required by law to be made, and all other acts required to be done by said companies, at the termination of their fiscal year or years, or within a limited time thereafter, may be made out and done on the last day of December, and within the same period thereafter, in lieu of such other days of the year, or periods of time, as are now designated by their charter or otherwise. (*Laws of 1861, chap. 326, § 2.*)

**103.** Any existing joint-stock company incorporated by this State for the purposes mentioned in the first section of this act, may, at any time after notice being given for three months in a newspaper published in the county where such company is located of such intention, and with a written consent of a majority of three-fourths in amount of its stockholders, or if a mutual company with the unanimous consent of its trustees, extend its original charter to the time specified by the provisions of this act by altering or amending the same, so as to accord with the provisions of this act, and filing a copy of the same so altered or amended, together with a declaration under its corporate seal, signed by its president and directors, of their desire for such extension, and also the written consent of three-fourths of its stockholders, and the unanimous consent of the trustees as aforesaid to such extension, in the office of the Superintendent of the Insurance Department, and upon the filing of such consent, declaration and charter, the same proceedings shall be had as are required by the eleventh section of this act, and any of the mutual [marine] insurance companies already chartered by the Legislature of this State may, after giving ninety days' notice in three of the public papers of the State, change to joint-stock companies by proceeding in accordance with and conforming their charter to the provisions of this act. (*Laws of 1849, chap. 308, § 14, as modified by laws of 1853, chap. 463, § 22, by laws of 1853, chap. 466, § 28, and by laws of 1853, chap. 528, § 1.*)

**104.** All charters formed or extended under this act shall be of thirty years' duration each, but the Legislature may at any time alter, amend or repeal this act, or dissolve or provide for the closing up the business and affairs of any company formed under it. (*Ibid*, § 15, as modified by laws of 1853, chap. 463, § 22.)

**105.** Suits at law may be maintained by any corporation formed under this act, against any of its members or stockholders, for any cause relating to the business of such corporation; also suits at law may be prosecuted and maintained by any member or stockholder against such corporation for losses which may have accrued if payment is withheld more than two months in all risks after such losses shall have become due. (*Ibid*, § 16.)

**106.** All companies formed under this act shall be deemed and taken to be bodies corporate and politic in fact and in name, and shall be subject to all the provisions of the Revised Statutes



in relation to corporations, so far as the same are applicable. (*Ibid*, § 17.)

**107.** No company formed under this act shall, directly or indirectly, deal or trade in buying and selling any goods, wares, merchandise, or other commodities whatever. (*Ibid*, § 18.)

**108.** The eighteenth section of the act entitled "An act to provide for the incorporation of insurance companies," passed April tenth, eighteen hundred and forty-nine, shall not be construed to prevent an insurance company from accepting an abandonment of property insured, and selling the same, nor be construed to prevent a purchase and resale of property under judicial process or otherwise, in which, or in the proceeds of the sale of which, such company may be interested, by reason of having previously become insurers of the same, or of some share or portion thereof. (*Laws of 1867, chap. 442, § 1.*)

**109.** Any mutual or stock insurance company incorporated by this State prior to the passage of said act may, at any time, have its original charter, as amended by subsequent acts, extended to the time for the period mentioned in the fifteenth section of said act, by filing in the office of the Superintendent of the Insurance Department a copy of said charter as amended, and a consent referring to the original charter, and the acts amending the same, signed by all its trustees, or by two-thirds of them, and not less than thirteen in number. But such examination and proceedings shall be had by the Superintendent of the Insurance Department, as are required by the eleventh section of said act, to be had by the Comptroller; and the Superintendent shall further inquire, and if so found, certify that such consent, after due notice has been regularly given, and that such company is in the active prosecution of its business, and is in a safe and proper condition to continue the same, and, on filing his certificate of approval, and that of the Attorney-General, it shall be lawful for such company, under and in accordance with its extended charter, as required by said eleventh section, to continue upon the same plan and without any interruption of its business or distribution of its assets, as fully and with like effect as if the original act incorporating the same, as amended by subsequent acts, had been specially extended by act of the legislature; *Provided*, That any company whose existence or privileges may be extended by this act, shall at all times be fully under the inspection and supervision of such Superintendent, and be subject to the checks and safeguards imposed by said acts, and the acts amending the same, and be also subject to the right of the legislature to alter, amend or repeal its charter, or any part or provision thereof. (*Ibid*, § 2, as amended by laws of 1868, chap. 731, § 1.)

**110.** The trustees and corporators of any company organized under this act, and these entitled to a participation of the profits, shall be jointly and severally liable until the whole amount of the capital raised by the company shall have been paid in, and a certificate thereof recorded as herein before provided. Notes taken in advance of premiums under this act are not to be considered debts of the company in determining whether a company is insolvent, but are to be regarded as assets of the company. (*Laws of 1849, chap. 308, § 19.*)

**111.** No dividends shall ever be made by any company incorporated under this act when its capital stock is impaired, or when the making of such dividend will have the effect of impairing its

capital stock, and any dividend so made shall subject each of the stockholders receiving the same to an individual liability to the creditors of said company to the extent of such dividend received by him. (*Ibid*, § 20, as amended by laws of 1857, chap. 38, § 1.)

**112.** It shall be lawful for any mutual company established or to be established in conformity with the provisions of the fourth section of this act for the purposes of marine insurance, and having complied with the provisions of the fifth and eleventh sections of this act, to unite a cash capital to any extent not less than two hundred thousand dollars, as an additional security to the members over and above its premiums and stock notes, which additional cash capital shall be loaned and invested as provided in the eighth section of this act, and the company may allow an interest on such cash capital, and a participation in its profits; but no such interest shall be paid except out of the actual profits of such company, and no company shall avail itself of the provisions of this section until such cash capital, to the extent of at least one hundred thousand dollars, shall have been actually paid in, in cash; and the subscribers to such cash capital, whether payable in full or by installments, shall each be individually liable for the debts of said company to the extent of his individual subscription, or such proportion thereof as shall be required in order to satisfy the debts of said company, unless he shall have paid his subscription in full, and such cash capital shall itself be liable as the capital stock of the company in the payment of its debts. The holders of the said cash capital shall be entitled in the election of trustees to one vote for each one hundred dollars of stock held by them respectively, and the trustees may make such regulations in relation to the certificates of stock to be issued, and the transfer thereof, as they may deem necessary for the security of the company and the owners of the cash capital. (*Ibid*, § 21, as amended by laws of 1857, chap. 38, § 2.)

**113.** This act shall take effect immediately, and all the provisions herein contained shall apply to all existing companies organized for the purposes of marine insurance under said act passed April tenth, eighteen hundred and forty-nine, and to all proceedings heretofore had or now pending and in progress for the purpose of uniting a cash capital to the other funds thereof. (*Laws of 1857, chap. 38, § 3.*)

**114.** Any mutual insurance company heretofore incorporated by the State, and now in operation, having power to effect marine insurance, and having its place of business in the city of New York, may increase its capital or fund on the amount of accumulated net profits which it is permitted to retain for the benefit and security of its dealers to any amount which shall be deemed expedient by its board of trustees; *Provided, however,* That if there be in the charter of such mutual insurance company any limitation of its capital or fund, or the amount of net profits which it has the power to accumulate and retain, such increase shall not take place unless a written consent thereto, under the corporate seal of the said company affixed thereto by a resolution of the board of trustees or directors, certified by the secretary, shall first be filed in the office of the Superintendent of the Insurance Department of this State; *and Provided,* That the privilege of retaining profits over one million of dollars shall not be exercised by any company availing itself of the provisions of this act, until a sufficient sum shall have been applied by such company, according to the provisions of its charter,

toward the redemption of all certificates or premiums heretofore issued and now outstanding. (§ 22, *as inserted and added by laws of 1855, chap. 292.*)

**115.** Any fire or fire and marine insurance company chartered by this State, may have a lien by passing a by-law to that effect, upon the stock or certificate of profits owned by any member, for any debt hereafter to become due the said company for premiums, by stating that the said stock is subject to any such lien upon the certificates of stocks or profits, and such lien may be waived in writing by the consent of the president of such company upon the transfer of any such stock. (*Laws of 1862, chap. 367, § 6.*)

**116.** It shall be the duty of the Superintendent of the Insurance Department, whenever he shall deem it expedient so to do, to appoint one or more persons, not officers of any insurance company doing business in this State, to examine into the affairs of any marine insurance company incorporated in this State, or doing business by its agents in this State; and it shall be the duty of the officers and agents of any such company doing business in this State, to cause their books to be opened for the inspection of the person or persons so appointed, and otherwise to facilitate such examination, so far as it may be in their power to do; and for that purpose the said Superintendent, in case of a personal examination, or the person or persons so appointed by him, shall have power to examine, under oath, the officers and agents of any company or others relative to the business of said company; and whenever the said Superintendent shall deem it for the interest of the public so to do, he shall publish the result of such investigation in one or more papers in this State; and whenever it shall appear to the said Superintendent from such examination, that the assets of any company incorporated in this State are insufficient to justify the continuance in business of any such company, or in case of a joint-stock company that its capital is impaired twenty per cent., he may direct the officers thereof to require the stockholders to pay in the amount of such deficiency within such period as he may designate in such requisition, or he shall communicate the fact to the Attorney-General, whose duty it shall then become to apply to the Supreme Court for an order requiring them to show cause why the business of such company should not be closed, and the court shall thereupon proceed to hear the allegations and proofs of the respective parties; and in case it shall appear to the satisfaction of said court that the assets and funds of said company are not sufficient, as aforesaid, or that the interests of the public so require, the said court shall decree a dissolution of said company and a distribution of its effects. The Supreme Court shall have power to refer the application of the Attorney-General to a referee, to inquire into and report upon the facts stated therein. Any company receiving the aforesaid requisition from the said Superintendent, shall forthwith call upon its stockholders for such amounts as will make its capital equal to the amount fixed by the charter of said company; and in case any stockholder of such company shall refuse or neglect to pay the amount so called for, after notice personally given or by advertisement, in such time and manner as the said Superintendent shall approve, it shall be lawful for the said company to require the return of the original certificate of stock held by such stockholder, and in lieu thereof to issue new certificates for such number of shares as the said stockholder may be entitled to in the proportion that the



ascertained value of the funds of the said company may be found to bear to the original capital of the said company; the value of such shares for which new certificates shall be issued shall be ascertained under the direction of the said Superintendent, and the company shall pay for the fractional parts of shares; and it shall be lawful for the directors of such company to create new stock and dispose of the same, and to issue new certificates therefor, to an amount sufficient to make up the original capital of the company. And it is hereby declared that in the event of any additional losses accruing upon risks taken after the expiration of the period limited by the said Superintendent, in the aforesaid requisition for the filling up of the deficiency in the capital of such company, and before said deficiency shall have been made up, the directors shall be individually liable to the extent of such loss. And if, upon such examination, it shall appear to the said Superintendent that the assets of any company chartered on the plan of mutual insurance under this act and doing a marine business, are insufficient to justify the continuance of such company in business, it shall be his duty to proceed in relation to such company in the same manner as is herein required in regard to joint-stock companies; and the trustees or directors of such company are hereby made personally liable for any losses which may be sustained upon risks taken after the expiration of the period limited by the said Superintendent for filling up the deficiency in the capital, and before such deficiency shall have been made up. Any transfer of the stock of any company organized under this act, made during the pending of any such investigation, shall not release the party making the transfer from his liability for losses which may have accrued previous to the transfer. And whenever it shall appear to the said Superintendent, from the report of the person or persons appointed by him, that the affairs of any company, not incorporated by the laws of this State, are in an unsound condition, he shall revoke the certificates granted in behalf of such company, and shall cause a notification thereof to be published in the State paper for four weeks; and the agent or agents of such company shall not, after such notice, issue any new policy and shall not renew any previously issued. (§ 22, *as inserted and added by laws of 1866, chap. 577.*)

**117.** Any marine mutual insurance company heretofore chartered by the Legislature of this State under a special act, or any marine mutual insurance company now incorporated, or which may hereafter be incorporated under any general act or law of this State, shall have power to create or unite with its existing corporate funds, if it have any such funds, a cash capital of not less than three hundred thousand dollars, to be divided into shares of one hundred dollars each, to be issued to such persons as shall subscribe and pay for the same; which shares shall be transferable only on the books of the company, subject to such regulations as the trustees shall from time to time prescribe. (*Laws of 1857, chap. 28, § 1.*)

**118.** The profits of the business of every corporation which shall avail itself of the provisions of this act, after setting apart therefrom a sufficient sum to cover the payment of seven per cent. per annum upon the cash capital, and also the interest accruing upon any outstanding scrip or certificates of such company, shall be divided between the stockholders and others entitled by its charter or articles of association to participate in its profits, in the following manner, viz.: one-third thereof, or such other proportion not ex-



ceeding that rate as may be determined and agreed upon at the time when the subscriptions to the cash stock thereof are made, to be paid to the stockholders in cash, and the remainder thereof to the persons entitled by its charter or articles of association to participate in its profits, to whom scrip or certificates therefor shall be issued as provided in said charter or articles of association; but it shall be competent for such company to exclude from the computation of premiums entitled to participate in such profits, premiums or risks on which loss shall have happened. The fund represented by the scrip shall constitute a surplus or reserve of such company for the security and payment of losses, and be liable for any excess of losses and expenses above the earned premiums of any year; each later annual issue of scrip always to be first reduced or wholly canceled before any previous annual issue is at all reduced, and all the issues of scrip to be liable to reduction and cancellation before the capital stock shall be encroached upon. (*Ibid*, § 2.)

**119.** Whenever the cash stock paid in shall amount to three hundred thousand dollars or more, the trustees may, by a vote of three-fourths of their whole number, convert the certificates of profits, in whole or in part, into cash stock, commencing, if in part, with the certificates of the year of earliest issue outstanding, and so on in succession, upon application therefor being made to the company by the holders thereof within such period of time, and at such a price, not exceeding its par value, and under such conditions and regulations as the trustees may fix and establish for that purpose, and whenever the cash stock shall amount to five hundred thousand dollars or more, the trustees may, by a like vote, call in and redeem and cancel the outstanding certificates of profits, and make the company wholly a cash stock company, dividing all its profits to the cash stockholders; and the trustees shall have power to make all necessary by-laws and regulations to conform to such changes in the business of the company. (*Ibid*, § 3.)

**120.** The holders of the cash capital paid in shall be entitled to one vote at all elections of said company for each share of said stock held by them respectively, such votes to be given either in person or by proxy; and no person shall be entitled to vote at any election by reason of being the holder of a policy issued after such cash capital is paid in, or of being the holder of any scrip or certificate of profits of such company issued after that time, unless otherwise provided for in the articles of subscription to the said cash capital. (*Ibid*, § 4.)

**121.** It shall not be lawful for such company, except as provided in the third section of this act, to apply any of its funds or profits to the redemption or payment of any certificate of profits, if by such payment the aggregate of its cash capital, and its accumulated profits together, shall be reduced below the amount which shall have been fixed by its by-laws or articles of association, and such aggregate amount shall not be fixed below the sum of one million of dollars, in addition to the amount of the cash stock thereof. (*Ibid*, § 5.)

**122.** Each subscriber to the cash capital aforesaid shall be individually liable, to the extent of his subscription, for the dues of the corporation, until the shares of stock subscribed for by him shall have been paid in cash to the said corporation. (*Ibid*, § 6.)

**123.** This act shall not be so construed as to extend or prolong any special charters beyond the period for which the same

were originally granted, or to apply to or revive any charter under which any company is not now actually transacting business. (*Ibid*, § 7.)

**121.** If any marine insurance company organized under the laws of this State, having paid a loss, shall receive a sum derived from the Geneva award, by way of reimbursement of that loss, it shall be lawful for such company to divide the net amount so received, after deducting the expenses and liabilities relating thereto, among the persons or parties who paid premiums and suffered by the payment of the original loss, or were prevented from receiving so much as they otherwise would have received by occasion of that loss, instead of dividing the same among the more recent scrip holders or dealers with such company; such division to be in the form of an extra dividend, or extra dividends upon the plan contemplated by the charter of such company, subject to all just claims for debts and liabilities, and payable to the same persons or their representatives, and in like manner as the money from which the loss was originally paid would have been payable if the loss had not been borne by the company, and the action of the board of directors or trustees in ascertaining the amount and making such extra dividend or dividends shall have the like force and effect as their action in making and declaring dividends under the charter. (*Laws of 1873, chap. 614, § 1.*)

## LIFE, HEALTH AND CASUALTY INSURANCE COMPANIES AND AGENCIES.

**125.** Any number of persons, not less than thirteen in number, may associate and form an incorporation or company for the purposes specified in either of the following departments:

*First Department.*—To make insurance upon the lives of individuals and every insurance appertaining thereto or connected therewith, and to grant, purchase or dispose of annuities.

*Second Department.*—To make insurance upon the health of individuals and against personal injury, disablement or death resulting from traveling or general accidents by land or water, and guaranteeing the fidelity of persons holding places of public or private trust, and upon the lives of horses, cattle and other live stock, and also against loss, damage or liability arising from any unknown or contingent event whatever, which may be the subject of legal insurance, except the perils and risks included within the departments of fire, marine and life insurance.

Every company organized under this act shall have authority to reinsure any risk herein authorized to be undertaken. (*Laws of 1853, chap. 463, § 1; as amended by laws of 1865, chap. 328, § 1.*)

**126.** The amount of capital necessary for the organization of a company under the second department contained in the first section of said act, and the deposit of securities required to be made in the Insurance Department for the benefit of policy-holders, shall hereafter be at least one hundred thousand dollars, in lieu of twenty-five thousand dollars, as heretofore required, and such deposit shall consist of the same securities required of life insurance companies. (*Laws of 1865, chap. 328, § 2.*)

**127.** No company organized under this act for the purposes named in the first department, shall undertake either of the risks

mentioned in the second department; nor shall any company organized under this act, for the purposes named in the second department, undertake any business mentioned in the first department; and no company organized under this act shall undertake any business or risks, except as herein provided. No company, partnership or association, organized or incorporated by or under the laws of this or any other State of the United States, or any foreign government transacting the business of life insurance in this State, shall be permitted or allowed to take any other kind of risks except those connected with or appertaining to making insurance on life, and the granting, purchasing and disposing of annuities; nor shall the business of life insurance in this State be in any wise conducted or transacted by any company, partnership or association, which in this, or any other State or country, makes insurance on marine or fire risks, excepting by such foreign companies and associations as shall have already made the deposit in the Insurance Department required for the transaction of life insurance business in this State. (*Laws of 1853, chap. 463, § 2, as amended by laws of 1862, chap. 300, § 1.*)

**128.** The persons referred to in the first section of this act shall be designated as corporators, and they shall file in the office of the Superintendent of the Insurance Department a declaration signed by each of the corporators, setting forth their intentions to form a company for the purposes named in this act, which declaration shall comprise a copy of the charter they propose to adopt; and the said charter shall set forth the name of the company, the place where it is to be located, the kind of business to be undertaken, by referring to and repeating the department of the first section of this act to which they refer; the mode and manner in which the corporate powers of the company are to be exercised; the manner of electing the trustees or directors and officers, a majority of whom shall be citizens of this State, and the time of such election; the manner of filling vacancies; the amount of capital to be employed; and such other particulars as may be necessary to explain and make manifest the objects and purposes of the company, and the manner in which it is to be conducted. And the Superintendent of the Insurance Department shall have the right to reject any name or title of any company applied for or in process of organization, when he shall deem the name or title too similar to one already appropriated, or likely to mislead the public in any respect. All charters on file, or hereafter to be filed, in the Insurance Department, shall be considered as abandoned and become inoperative and void, unless the corporators perfect their organization thereunder, and make the deposit of one hundred thousand dollars in the Insurance Department for the protection of policy-holders, as required by this act, within the period of two years from the date of filing such charter. (*Ibid, § 3, as amended by Laws of 1869, chap. 404, § 1.*)

**129.** The provisions of the third section of chapter four hundred and sixty-three of the laws of eighteen hundred and fifty-three, requiring a majority of the trustees or directors of life and health insurance companies to be citizens of this State, are hereby declared to be applicable to such companies incorporated by special acts of the legislature; and no greater number than a majority, as aforesaid, shall hereafter be required to be residents of this State. (*Laws of 1869, chap. 634, § 1.*)

**130.** Whenever the corporators shall file such declaration

with the Superintendent of the Insurance Department, it shall become his duty to submit the same to the Attorney-General for examination; and, if found by him to be in accordance with the provisions of this act, and not inconsistent with the Constitution and laws of the United States and of this State, he shall certify to the same and deliver it back to the said Superintendent, who shall cause the said declaration, with the certificate of the Attorney-General, to be recorded in a book to be kept for that purpose, and, upon application of the corporators to the said Superintendent, it shall become his duty to furnish a certified copy of such declaration and certificate to the said corporators. (*Laws of 1853, chap. 463, § 4.*)

**131.** Whenever the corporators shall have received from the said Superintendent the certified copy provided for in the last section, and desire to proceed to organize such company, they shall publish their intentions in the paper in which the State notices are directed to be inserted; and when such intentions have been published in said paper for six weeks, they may open books to receive subscriptions to the capital stock, and keep such books open until the amount required by this act is subscribed, and may then proceed to distribute the stock among the subscribers, if more than the necessary amount is subscribed, and proceed to collect in the said capital and complete the organization of the company. (*Ibid, § 5.*)

**132.** No company shall be organized under this act, for the purposes mentioned in the first department, with a less capital than one hundred thousand dollars, and no company shall be organized, for the purposes mentioned in the second department, with a less capital than one hundred thousand dollars. The whole capital of such company shall, before proceeding to business, be paid in and invested in stocks or in treasury notes of the United States or of the State of New York, or in bonds and mortgages on improved unincumbered real estate within the State of New York, worth seventy-five per cent. more than the amount loaned thereon, exclusive of farm buildings thereon, or in such stocks or securities as now are or may hereafter be receivable by the bank department. And it shall be lawful for any company organized under this act, to change and reinvest its capital or any part thereof, at any time they may desire, in the stocks or bonds and mortgages or securities aforesaid. No company organized for the purposes mentioned in the first department shall commence business until they have deposited with the Superintendent of the Insurance Department of this State the sum of one hundred thousand dollars in United States or New York State stocks, in all cases to be, or to be made to be, equal to stock producing six per cent. per annum, and not to be received at a rate above their par value, or above their current market value, or in bonds and mortgages of the description and character above indicated, and no company organized for the purposes named in the second department shall commence business until they have deposited with the Superintendent of the Insurance Department of this State at least the sum of one hundred thousand dollars, invested as hereinbefore provided for the investment of the capital of such company. The Superintendent of the Insurance Department shall hold such securities as security for the policy-holders in said companies, but, so long as any company so depositing shall continue solvent, may permit such company to collect the interest or dividends on its securities so deposited, and, from time to time, to withdraw any of such securities on depositing with the said Superin-



tendent such other securities of like value as those withdrawn, and of the same character, and to be received as those above mentioned. (*Ibid*, § 6, as amended by laws of 1853, chap. 551, § 1, by laws of 1860, chap. 328, § 1, and by laws of 1862, chap. 300, § 2, as modified by laws of 1865, chap. 328, § 2.)

**133.** Any life insurance company, or any trust or loan company, may, by the direction and consent of two-thirds of their respective boards of directors, managers, or finance committee, purchase or invest, by loan or otherwise, any of their funds in the bonds issued by any county, town, or village of this State, pursuant to any law of this State, anything in the charter of either of said companies to the contrary notwithstanding. (*Laws of 1868, chap. 482, § 1.*)

**134.** Whenever the incorporators shall have fully organized such company, and the said company have deposited with the said Superintendent the requisite amount of capital, it shall become his duty to furnish the corporation with a certificate of such deposit, which, with a certified copy of the papers previously required under this act, shall, when filed in the County Clerk's office of the county where such company is to be located, be the authority to commence business and issue policies, and the same may be used in evidence for and against the corporation in all suits. (*Laws of 1853, chap. 463, § 7.*)

**135.** It shall be the duty of either the president or secretary, or actuary, of every insurance company having securities deposited in the office of the Superintendent of the Insurance Department of this State, once or more during each calendar year, and at such time or times during the ordinary business hours as said insurance company may select, to examine and compare such securities with the books of said department, and, if found correct, to execute to the Superintendent of the Insurance Department a receipt or certificate setting forth in the same the different kinds and the amounts thereof, and that the same are in the possession and custody of the Superintendent at the date of such receipt. (*Laws of 1869, chap. 902, § 16.*)

**136.** It shall be lawful for any company organized under this act, to invest its funds or accumulations in bonds and mortgages, on unincumbered real estate within the State of New York, and also on unincumbered real estate located outside of said State, and within fifty miles of the city of New York, worth fifty per cent. more than the sum so loaned thereon, or in stocks of the United States, stocks of this State, or of any incorporated city in this State, if at or above par, and any stocks created under the laws of this State, that shall be, at the time of such investment, at a market value in the city of New York, at or above par. (*Laws of 1853, chap. 463, § 8, as amended by laws of 1860, chap. 328, § 2, by laws of 1862, chap. 300, § 3, by laws of 1866, chap. 525, § 1, and by laws of 1868, chap. 318, § 1.*)

**137.** This act shall apply to all life insurance companies organized under any laws of this State. (*Laws of 1868, chap. 318, § 2.*)

**138.** Any company organized under the acts to which this is an amendment, having first obtained the consent of the Superintendent of the Insurance Department thereto in writing, may, by a vote of a majority of their directors, accept the provisions of

this act, or any of them, and amend their charter to conform to the same. (*Laws of 1860, chap. 328, § 3.*)

**139.** No company organized under this act shall be permitted to purchase, hold or convey real estate, except for the purposes and in the manner herein set forth, to wit:

1. Such as shall be requisite for its accommodation in the transaction of its business; or,

2. Such as shall have been acquired for the accommodation of its business previous to the passage of this act; or,

3. Such as shall have been mortgaged to it in good faith, by way of security for loans previously contracted, or for moneys due; or,

4. Such as shall have been conveyed to it in satisfaction of debts previously contracted in the course of its dealings; or,

5. Such as shall have been purchased at sales upon judgments, decrees or mortgages obtained or made for such debts;

and it shall not be lawful for any company incorporated as aforesaid to purchase, hold or convey real estate in any other case, or for any other purpose; and all such real estate as may be acquired as aforesaid, and which shall not be necessary for the accommodation of such company in the convenient transaction of its business, or which shall not have been necessary for such purpose at the time of its acquisition, shall be sold and disposed of within five years after such company shall have acquired title to the same; and it shall not be lawful for such company to hold such real estate for a longer period than that above mentioned, unless the said company should procure a certificate from the Superintendent of the Insurance Department that the interests of the company will suffer materially by a forced sale of such real estate, in which event the time for the sale may be extended to such time as the said Superintendent shall direct in said certificate. This act shall apply to all life insurance companies organized under any laws of this State. (*Laws of 1853, chap. 463, § 9; as amended by laws of 1875, chap. 170, §§ 1, 2.*)

**140.** The corporators or the trustees or directors, as the case may be, of any company organized under this act, shall have power to adopt a seal, and to make such by-laws, not inconsistent with this act or the constitution and laws of this State, as may be deemed necessary for the management of its affairs; and suits at law may be maintained by any corporation formed under this act, against any of its members or stockholders, for any cause relating to the business of such company; also, suits at law may be prosecuted and maintained by any member or stockholder of such corporation for losses which may have accrued, if payment is withheld more than two months, on all risks, after such losses shall have been due. (*Ibid, § 10.*)

**141.** All companies formed under this act shall be deemed and taken to be bodies corporate and politic, in fact and in name, and shall be subject to all the provisions of the Revised Statutes in relation to corporations, so far as the same are applicable, except in regard to annual statements and other matters herein otherwise specially provided for. (*Ibid, § 11.*)

**142.** It shall be the duty of the president or vice-president and secretary or actuary, or a majority of the trustees of each company organized under the laws of this State, annually, on the first day of January, or within sixty days thereafter, to prepare, under

oath, and deposit in the office of the Superintendent of the Insurance Department of the State, a statement, showing:

1. The number of policies issued during the year.
2. The amount of insurance effected thereby.
3. Amount of premiums received during the year.
4. Amount of interest and all other receipts, specifying the items.
5. Amount of losses paid during the year.
6. Amount of losses unpaid.
7. Amount of expenses.
8. Whole number of policies in force.
9. Amount of liabilities or risks thereon, and of all other liabilities.
10. Amount of capital stock.
11. Amount of accumulation, specifying whether received upon life insurance, annuities, or how otherwise.
12. Amount of assets and manner in which they are invested, specifying the amount in real estate, on bond and mortgage, stocks, loans on stocks, premium notes, credits or other securities.
13. Amount of dividend unpaid.
14. A tabular statement of the policies in force for the whole term of life, showing how many thereof, for each age of life, and for what amount of risk, were issued or in force during the first year of the existence of the company, during the second year, and so on up to the time of making such statement.
15. A tabular statement of the policies in force for a shorter period than the whole term of life, showing how many thereof for each age of life, and for what amount of risk, were issued or continued in force during the first year of the company's existence, during the second year, and so on up to the time of making such statement.

The Superintendent of the Insurance Department shall cause to be prepared, and furnished to every company to which this act shall apply, printed forms of the statements herein required; and he may make such changes from time to time, in the form of the same, as shall seem to him best adapted to elicit from said companies a true exhibit of their condition in respect to the several points herein before enumerated. (*Ibid*, § 12.)

**143.** It shall be the duty of the Superintendent of the Insurance Department to arrange the information contained in the statements required in the last section in a tabular form, or in abstracts, and to prepare the same for printing in his annual report to the legislature. It shall also be the duty of the said Superintendent, at least once in every five years, and annually in his discretion, to make valuations of all the outstanding policies, additions thereto, unpaid dividends and all other obligations of every American life insurance company transacting business in this State; and for the purposes of such valuations, and for making special examinations under the seventeenth section of this act, and for valuing registered life and other policies under chapter 708 of the laws of eighteen hundred and sixty-seven, the rate of interest assumed shall be four and a-half per cent. per annum, and the rate of mortality shall be that established by the American Experience Table, in which table the expectation of life and the numbers of living and dying at each age from

ten to ninety-five out of one hundred thousand persons living at age ten, are as stated in the schedule hereto annexed.

[The "Schedule" is simply the *American Experience Table of Mortality*, with which the companies are familiar and which is easily accessible elsewhere. We therefore omit its republication in this place.—EDITOR.]

The Superintendent may, in his discretion, vary the above standards of interest and mortality, in cases of companies from foreign countries, and in particular cases of invalid lives or other extra hazards. The Superintendent may also, in his discretion, value policies in groups, use approximate averages for fractions of a year and otherwise, and calculate values by the net, the actual or the gross premiums or otherwise, deducting, in cases of gross valuations, from the gross value of future premiums, one-sixth thereof, for future expenses and contingencies. The Superintendent may, in his discretion, accept the valuation of the department of insurance of any other State in place of the valuation required in this act, provided the insurance officer of such State, does not refuse to accept, as sufficient and valid for all purposes, the certificate of valuation of the Insurance Department of this State. (*Ibid.*, § 13, as amended by laws of 1866, chap. 785, § 1, by laws of 1868, chap. 623, § 1, and by laws of 1873, chap. 849, § 1.)

**144.** The Superintendent of the Insurance Department is hereby authorized and empowered to address any inquiries to any life or casualty insurance company, or the secretary thereof, in relation to its doings or condition, or any other matter connected with its transactions; and it shall be the duty of any company so addressed to promptly reply in writing to any such inquiries, under the same penalties provided in similar cases for fire insurance companies, and failing to answer, it shall not be authorized to transact any business in this State, and its certificates of authority may be revoked and canceled. (*Laws of 1867, chap. 708, § 7, as amended by laws of 1869, chap. 902, § 14.*)

**145.** It shall not be lawful for any person to act within this State, as agent or otherwise, in receiving or procuring applications for insurance, or in any manner to aid in transacting the business of insurance, referred to in the first section of this act, for any company or association incorporated by or organized under the laws of any other State government, unless such company is possessed of the amount of actual capital required by the sixth section of this act for companies in this State, and the same is invested in stocks or treasury notes of the United States, or of the State of New York, or of the State in which said company is located, or on bonds and mortgages on improved unincumbered real estate within the State where such company is located, or in such stocks or securities as now are, or may hereafter be, receivable by the Bank Department; but all mortgages deposited by any company under this section shall be upon improved unincumbered real estate, worth seventy-five per cent. more than the amount loaned thereon, which stocks and securities shall be deposited with the Auditor, Comptroller, or chief financial officer of the State, by whose laws said company is incorporated, and the Superintendent of the Insurance Department of this State, furnished with the certificate of such Auditor, Comptroller, or chief financial officer aforesaid, under his hand and official seal, that he, as such Auditor, Comptroller, or chief financial officer of such State, holds in trust and on deposit, for the benefit of all the



policy-holders of such company, the security before mentioned, which certificate shall embrace the items of the security so held, that he is satisfied that such securities are worth one hundred thousand dollars, if the company proposes to transact the business referred to in the first department, or that they are worth one hundred thousand dollars, if the company proposes to transact the business referred to in the second department. But nothing herein contained shall be construed to invalidate the agency of any company incorporated by another State by reason of such company having, from time to time, exchanged the securities so deposited with the Auditor, Comptroller, or chief financial officer of the State in which such company is located, for other stock or securities, authorized by this act, or by reason of such company having drawn its interest and dividends, from time to time, for such stocks and securities. Such company shall also appoint an attorney in this State, on whom process of law can be served; and such attorney shall file with the Superintendent of the Insurance Department a certified copy of the charter of said company, and also a certified copy of the vote or resolution of the trustees or directors of the said company appointing such attorney, which appointment shall continue until another attorney be substituted. And, in case any such insurance corporation shall cease to transact business in this State according to the laws thereof, the agents last designated, or acting as such for such corporation, shall be deemed to continue agents for such corporation, for the purpose of serving process for commencing actions upon any policy or liability issued or contracted while such corporation transacted business in this State, and service of such process, for the causes aforesaid, upon any such agent, shall be deemed a valid personal service upon such corporation. Such company shall also file a statement of its condition and affairs in the office of the Superintendent of the Insurance Department, in the same form and manner required for the annual statements of similar companies organized under the laws of this State. It shall not be lawful for any agent to act for any company referred to in this section directly or indirectly, in taking risks, collecting premiums, or in any manner transacting the business of life insurance in this State, without procuring from the said Superintendent a certificate of authority, stating that the foregoing requirements have been complied with, and setting forth the name of the attorney for such company, a certified copy of which certificate shall be filed in the County Clerk's office of the county where the agency is to be established, and shall be the authority of such company and agent to commence business in this State, and such company or its attorney shall annually, in the month of January, file with the Superintendent of the Insurance Department of this State a statement of its affairs for the preceding year, in the same manner and form provided in the twelfth section of this act for similar companies in this State; and if the said annual statement shall be satisfactory evidence to the Superintendent of the Insurance Department of the solvency and ability of the said company to meet all its engagements at maturity, and that the said deposit is maintained, as above required and provided, he shall issue renewal certificates of authority to the agents of said company, certified copies of which shall be filed in the County Clerk's office of the county where the agency is located, during the month of January in each year, and which renewal certificates shall be the authority of such agents to issue new policies in this State for the

ensuing year. (*Laws of 1853, chap. 463, § 14, as amended by laws of 1853, chap. 551, § 2, and by laws of 1862, chap. 300, § 4, as modified by laws of 1865, chap. 328, § 2.*)

**146.** The annual statements of life, health or casualty insurance companies, incorporated by or organized under the laws of any other State government, shall hereafter be made on the first day of January of each year, or within sixty days thereafter, and the renewal certificates of authority issued and filed within the same period. The fees for each certificate of authority, and certified copy thereof, shall be five dollars. (*Laws of 1865, chap. 328, § 3.*)

**147.** It shall not be lawful for any person to act in this State as agent or otherwise, in receiving or procuring applications for life or health insurance, or in any manner to aid in transacting the business of any life or health insurance company, partnership or association, incorporated by or organized under the laws of any foreign government, until such company, partnership or association shall have deposited with Superintendent of the Insurance Department for the benefit of the policy-holders of said company, partnership or association, citizens or residents of the United States, securities to the amount of one hundred thousand dollars of the kind required, or which may hereafter be required for similar companies of this State, and shall have appointed an attorney in this State, on whom process of law can be served, and the said company, partnership or association shall have filed with the Superintendent of the Insurance Department a duly certified copy of the charter or deed of settlement of the said company, partnership or association, and also a duplicate original copy of the letter or power of attorney of such company or association appointing the attorney thereof, which appointment shall continue until another attorney be substituted. And in case any such insurance corporation shall cease to transact business in this State according to the laws thereof, the agents last designated or acting as such corporation, shall be deemed to continue agents for such corporation for the purpose of serving process for commencing actions upon any policy or liability issued or contracted while such corporation transacted business in this State, and service of such process, for the causes aforesaid, upon any such agent, shall be deemed a valid personal service upon such corporation. Such company, partnership or association shall also file a statement of its condition and affairs, in the office of the Superintendent of the Insurance Department, in the same form and manner required for the annual statement of similar companies organized under the laws of this State. It shall not be lawful for any agent or agents to act for any company, partnership or association referred to in this section, directly or indirectly, in taking risks, collecting premiums, or in any manner transacting the business of life insurance in this State, without procuring from the said Superintendent a certificate of authority (which shall be renewable annually) stating that the foregoing requirements have been complied with, and setting forth the name of the attorney for such company, a certified copy of which certificate shall be filed in the County Clerk's office of the county where the agency is to be established, and which shall be the authority of such company and agent to commence business in this State; and such company, partnership or association, shall annually, on the first day of January, or within thirty days thereafter, file with the Superintendent of the Insurance Department, a statement of all its affairs, in the same manner and form provided in the twelfth section of this

act for similar companies in this State; which statement shall be made up for the year ending on the preceding thirtieth day of June, accompanied also by a supplementary annual statement, duly verified by the attorney or general agent of the company or association in this State, giving a detailed description of the policies issued, and those which have ceased to be in force during the year, the amount of premiums received and claims and taxes paid in this State and the United States, for the year ending on the preceding thirty-first day of December. Said supplementary statement shall also contain a description of the investments of such company or association, in this country, and such other information as may be required by said Superintendent; and if the said annual statement shall be satisfactory evidence to the said Superintendent of the solvency and ability of the said company to meet all its engagements at maturity, he shall issue renewal certificates of authority to the agents of said company, partnership or association, certified copies of which shall be filed by such agents in the County Clerk's office of the county where the agency is located, within sixty days after the first day of January in each year, and which renewal certificates shall be the authority of such agents to issue new policies in this State for the ensuing year. All such foreign insurance companies, partnerships and associations, engaged in the transaction of the business of life or health insurance in this State, shall, annually, on or before the first day of March in each year, pay to the Superintendent of the Insurance Department a tax of two per cent. on all premiums received in cash or otherwise, by their attorneys or agents in this State, during the year ending on the preceding thirty-first day of December, upon which a tax on premiums has not been paid to any other State. The avails of said tax shall be paid into the State Treasury, and shall be applicable, as far as necessary, toward defraying the expenses of the Insurance Department. In case of neglect or refusal by any such company to pay said tax, the Superintendent is hereby authorized to collect the same out of the interest on the stocks and securities deposited by such company in the Insurance Department. (*Laws of 1853, chap. 463, § 15, as amended by laws of 1862, chap. 300, § 5.*)

**148.** All foreign insurance companies, associations, corporations, partnerships and individuals, transacting the business of fire, marine or life insurance, or any other kind of insurance in this State, shall make annual statements of their condition and affairs to the Insurance Department, in the same manner and in the same form as similar companies organized under the laws of this State. (*Laws of 1861, chap. 334, § 1.*)

**149.** In case of neglect or refusal to make such annual statements, as aforesaid, all persons acting in this State, as agents or otherwise, in transacting the business of insurance for said companies, corporations, associations, partnerships or individuals, shall be subject to the same penalties provided by law in case of the failure of any insurance company organized under the laws of this State, to make an annual statement, as now provided by law. (*Ibid, § 2.*)

**150.** Foreign insurance companies shall hereafter be required to make and file their annual statements on the first day of June in each year, or within thirty days thereafter, made out for the year ending on the preceding thirty-first day of December; the supplementary annual statements of their business and affairs in the United States shall continue to be filed in the month of January in each



year, made out for the year ending on the thirty-first day of December immediately preceding. (*Laws of 1865, chap. 199, § 2, as amended by laws of 1867, chap. 709, § 1.*)

**151.** Every county clerk shall demand and receive, for every paper filed in his office under this act, the sum of ten cents, to be accounted for and paid to the County Treasurer as now provided with regard to other fees. (*Laws of 1853, chap. 463, § 16, as modified by laws of 1859, chap. 366, §§ 7, 8.*)

**152.** It shall be the duty of the Superintendent of the Insurance Department, whenever he shall have good reason to suspect the correctness of any annual statement, or that the affairs of any company making such statement are in an unsound condition, to cause an examination to be made into the affairs of any insurance company for the purposes named in this act, incorporated in this State, or doing business by its agencies in this State; and it shall be the duty of the officers or agents of any insurance company doing business in this State, to cause their books to be opened for the inspection of the person or persons so appointed, and otherwise to facilitate such examination so far as it may be in their power so to do; and for that purpose the said Superintendent, or the person or the persons so appointed by him, shall have power to examine, under oath, the officers and agents of any company relative to the business of said company; and whenever the said Superintendent shall deem it for the interest of the public so to do, he shall publish the result of such investigation in the paper in which the State notices are directed to be inserted; and whenever it shall appear to the said Superintendent, from such examination, that the assets of any such company be insufficient to re-insure the outstanding risks, he shall communicate the fact to the Attorney-General, whose duty it shall then become to apply to the Supreme Court for an order requiring them to show cause why the business of such company should not be closed, and the court shall thereupon proceed to hear the allegations and proofs of the respective parties; and, in case it shall appear to the satisfaction of the said court that the assets and funds of the said company are not sufficient, as aforesaid, the said court shall decree a dissolution of said company and a distribution of its effects, including the securities deposited in the hands of the said Superintendent. The Supreme Court shall have power to refer the application of the Attorney-General to a referee, to inquire into and report upon the facts stated therein. And, whenever it shall appear to the said Superintendent, from the report of the person or persons appointed by him that the affairs of any company not incorporated by the laws of this State are in an unsound condition, he shall revoke the certificates granted in behalf of such company, and shall cause a notification thereof to be published in the State paper for four weeks, and the agent or agents of such company are, after such notice, required to discontinue the issuing of any new policies. The expense of any examination made under this section shall be borne by the company so examined. (*Ibid*, § 17.)

**153.** It shall be the duty of the Superintendent of the Insurance Department to make, or cause to be made, an examination of the condition and affairs of any life or casualty insurance company, as provided for in the seventeenth section of chapter four hundred and sixty-three of the laws of eighteen hundred and fifty-three, whenever he shall deem it expedient so to do, and also whenever he shall have good reason to suspect the correctness of any annual



statement, or that the affairs of any company making such statement are in an unsound condition. (*Laws of 1867, chap. 708, § 8, as amended by laws of 1869, chap. 902, § 15.*)

**154.** Every violation of this act shall subject the party violating to a penalty of five hundred dollars for each violation, which shall be sued for and recovered in the name of the people, by the District Attorney of the county in which the company or agent or agents so violating shall be situated, and one-half of such penalty, when recovered, shall be paid into the treasury of such county, and the other half to the informer of such violation; and, in case of the non-payment of such penalty, the party so offending shall be liable to imprisonment for a period not exceeding six months, in the discretion of any court having cognizance thereof. (*Laws of 1853, chap. 463, § 18.*)

**155.** When any company, transacting the business of insurance under either of the departments specified in the first section of this act, within the State of New York, shall desire to relinquish its business, the Superintendent of the Insurance Department shall, on application of such company or association, under the oath of the president or principal officer and secretary or actuary, give notice of such intention in the paper in which the State notices are directed to be inserted, at least twice a week for six months; and after such publication he shall deliver up to such company or association the securities held by him, belonging to them, on being satisfied by the exhibition of the books and papers of such company or association, and on examination to be made by himself or some competent person, not an officer of any life insurance company in this State, to be appointed by him, and upon the oath of the president or principal officer and the secretary or actuary of the same, that all debts and liabilities of every kind are paid and extinguished that are due or may become due upon any contract or agreement made with any citizens of the United States. And the said Superintendent may also from time to time deliver up to such company or association or its assigns, any portion of said securities, on being satisfied in manner and form aforesaid, or by any other competent proof, that all the debts and liabilities of every kind that are due or may become due upon any contract or agreement made with any citizen of this State by said company or association are less than one-half of the amount of the portion of said securities he shall still retain. Any foreign life insurance company desiring to discontinue business in this country, and having made the aforesaid publication, may, in the discretion of the Superintendent of the Insurance Department, withdraw one half of its deposits of one hundred thousand dollars, on registering, according to the provisions of law for registered policies, all its outstanding policies, issued to citizens or residents of the United States, and covenanting to maintain unimpaired the reinsurance deposit for such registered policies at all future times, and specially pledging for their security all future premiums payable on American policies. (*Ibid, § 19, as amended by laws of 1859, chap. 263, § 1, and laws of 1869, chap. 829, § 1.*)

**156.** Every charter created by or under the laws of this State for the purposes aforesaid, shall continue until repealed. (*Ibid, § 20.*)

**157.** Any existing company incorporated by or authorized under the laws of this State, for the purposes mentioned in this act, may avail themselves of the provisions of this act, after publishing their intentions for six weeks in the State paper, and obtaining the

consent of the majority of the trustees or directors, and complying with the third section of this act in relation to the filing and contents of the declaration therein referred to. (*Ibid*, § 21.)

**158.** So much of the act of April tenth, eighteen hundred and forty-nine, and of April eighth, eighteen hundred and fifty-one, as relate to life insurance, is hereby repealed, but this section shall not affect any company incorporated under such acts. (*Ibid*, § 22.)

**159.** Any mutual life insurance company in this State, incorporated previously to the passage of the general insurance law, on the tenth day of April, eighteen hundred and forty-nine, shall be subject to taxation in the same manner as if it were incorporated under said general law, with a capital of one hundred thousand dollars, as required by the sixth section of the said general law. (*Ibid*, chap. 469.)

**160.** Any mutual life insurance company incorporated in this State previous to the passage of the general insurance law, on the tenth day of April, eighteen hundred and forty-nine, shall be subject to taxation on the sum of one hundred thousand dollars for personal property and no more; and it is hereby declared that such was the intention and it is the true construction of said act of June twenty-nine, eighteen hundred and fifty-three, in regard to any taxes imposed on said companies after said act took effect. (*Laws of 1855, chap. 83.*)

**161.** It shall be the duty of every life insurance company organized under the laws of this State, within sixty days after the passage of this act, to prepare and deposit in the office of the Superintendent of the Insurance Department of the State, a report giving a detailed statement of the annual dividends heretofore made to the stockholders of such company. (*Laws of 1866, chap. 843, § 1.*)

**162.** Such report shall be under oath, and be duly sworn to by the president, actuary and secretary of such company; and a like report shall hereafter be annually made in like form and manner to said Superintendent, at the same time that the annual report is now required by law to be made by such companies. (*Ibid*, § 2.)

**163.** Any life insurance company, chartered by or organized under the laws of this State, which, by its charter or articles of association, is restricted to the making a dividend only once in two or more years, may hereafter, any thing in said charters or articles of association contained to the contrary notwithstanding, make and pay over or credit, annual dividends in the manner and proportions, and among the parties provided for in said charter or articles of association. (*Laws of 1868, chap. 118, § 1.*)

**164.** No transfer of stocks, bonds and mortgages or other securities, now held or hereafter received by the Superintendent of the Insurance Department under the provisions of any act authorizing deposits in the said Department, shall be deemed valid or of binding force or effect unless the same be countersigned by the Treasurer of the State, or in his absence from his office or inability to perform the duties of his office, by his deputy. It shall be the duty of the Treasurer aforesaid, to keep in his office, or in the office of the Superintendent of the Insurance Department, a book in which shall be entered the name of the company, from whose account such transfer of securities is made by the Superintendent and the name of the party to whom such transfer is made, unless such transfer shall be made in blank, and the par value of any stock so transferred shall be entered therein, and the amount for which every mortgage,

transferred is held by the Superintendent, and the name of the party to whom assigned shall also be therein entered; and it shall be the duty of the Treasurer, immediately upon countersigning and entering the same, to advise by mail, the company from whose account such transfer is made, of the kind of security and the amount of the same thus transferred. (*Laws of 1868, chap. 732, § 1.*)

**165.** The Treasurer shall present in his annual report to the legislature, the total amount of such transfers or assignments countersigned by him. (*Ibid, § 2.*)

**166.** It shall be the duty of the Treasurer, or in his absence from his office, or in case of his inability to perform the duties of his office, of his deputy, to countersign and enter upon the book, in the manner aforesaid, every transfer or assignment of any securities held by the said Superintendent presented for his signature; and the Treasurer shall have at all times during office hours, access to the books of the Superintendent of the Insurance Department, for the purpose of ascertaining the correctness of the transfer or assignment presented to him to countersign; and the Superintendent shall have access to the book above mentioned, kept by the Treasurer, during office hours, to ascertain the correctness of the entries upon the same. (*Ibid, § 3.*)

**167.** The Treasurer shall, for the services required by this act, receive the annual salary of two hundred and fifty dollars, to be paid in the same manner as the salary of the Superintendent, and the same shall be audited and allowed by the said Superintendent, and charged in the general expenses of the Insurance Department. (*Ibid, § 4.*)

**168.** It shall be lawful for any life insurance company, organized under the laws of this State, to ascertain at any given time, and from time to time, the proportion of surplus accruing to each policy from the date of the last to the date of the next succeeding premium payment, and to distribute the proportion found to be equitable, either in cash, in reduction of premium, or in reversionary insurance, payable with the policy, and upon the same conditions as therein expressed, at the next succeeding date of such payment; any thing in the charter of any such company to the contrary notwithstanding. (*Laws of 1872, chap. 100, § 1.*)

#### REGISTRATION OF LIFE POLICIES AND SPECIAL DEPOSITS OF SECURITIES.

**169.** Any life insurance company, now or hereafter authorized under and by the laws of this State to make insurance on lives, may deposit in the Insurance Department securities of the kind and in addition to the amount now required and authorized by law to be deposited by life insurance companies in that department, to any amount not less than twenty-five thousand dollars, in the manner and for the purposes hereinafter mentioned. (*Laws of 1867, chap. 708, § 1, as amended by laws of 1869, chap. 902, § 1.*)

**170.** The securities deposited by any company under the provisions of this act shall be legally transferred by it to the Superintendent of the Insurance Department, for the common benefit of all the holders of its registered policies and annuity bonds issued under the provisions of this act, and he shall hold the same in trust for the purposes and objects specified in this act. Said securities shall



not be alienated from the purposes of said trust, nor transferred, except in the manner hereinafter provided, and such transfer shall only be made by said Superintendent under his seal of office, upon the written application, under its corporate seal, of the company making such deposit, or of the receiver of said company appointed as herein provided, and in compliance with the laws of this State relating to such transfers; *Provided*, That any company hereafter electing to make special deposits, as authorized by this act, shall do so in respect to all policies thereafter issued, and not a portion of them only; but any company which has already made such election shall not be required to make special deposits for all its policies until after the first day of January, eighteen hundred and seventy. (*Laws of 1869, chap. 902, § 2.*)

**171.** Whenever any such company shall legally transfer to the Superintendent of the Insurance Department any amount of said securities, not less than twenty-five thousand dollars, said Superintendent shall issue to said company registered policies of insurance or annuity bonds, of such denominations or amounts as the said company may require. Such policies and annuity bonds shall bear upon their face the words "secured by pledge of public stock or bonds and mortgages," with the seal of the said department, and shall be countersigned by the Superintendent or his authorized deputy. (*Laws of 1867, chap. 708, § 2, as amended by laws of 1869, chap. 902, § 3.*)

**172.** The said Superintendent shall, on delivering said policies or annuity bonds to any of said life insurance companies, charge to said companies respectively the amount of the net present value of such policies or annuity bonds, valued by the tables authorized by law in relation to life insurance companies, according to the amount and number of premiums paid annually, semi-annually, or quarterly, thereon, and the terms thereof; but in no case shall the amount of such value exceed in the aggregate the amount of the securities deposited under the provisions of this act. On the first day of July of each and every year, or within sixty days thereafter, the said companies shall make a return to the Superintendent of the Insurance Department, under oath of the president and actuary, of the exact condition of the registered policies received from the said department, and of the premium account of the said policies, and shall deposit with the said Superintendent additional and similar securities, to an amount equal to any increase of value of the policies heretofore issued, and which shall remain in force, valued by the same rule as upon the issue thereof; and the securities thus from time to time deposited, or so large an amount thereof as may be necessary to equal at all times the net value of all the outstanding registered policies and annuity bonds of said companies, shall be held by said Superintendent, in trust as aforesaid, until the obligations of said companies under the said registered policies and annuity bonds shall, to the satisfaction of the said Superintendent, be fully liquidated, canceled, or annulled; but nothing in this act shall be construed as implying any obligation on the part of the State to pay the policies and annuity bonds issued under this act, beyond a proper application of the securities so deposited toward their liquidation as hereinafter provided. The Treasurer of the State, and any person duly authorized by the depositing or reinsuring company, shall, at all times in the usual office hours, have access to the books and other documents in the Insurance Department, relating



to the deposits made, and policies and annuity bonds issued under the provisions of this act; and they shall also, at all such times, have such access to such securities as may be necessary for the examination thereof. The Treasurer shall, for the services required by this act, receive the annual salary of two hundred and fifty dollars, to be paid by the companies availing themselves of the provisions of this act. (*Ibid*, § 3, as amended by laws of 1869, chap. 902, § 4.)

**173.** The said depositing companies may at any time withdraw any excess of securities above the net present value hereinbefore specified, upon satisfying the said Superintendent, by written proof to be filed in the said Department, that such excess exists, and shall be allowed to receive the interest on all securities deposited, and to exchange such securities by substituting other securities, as now provided by the acts in relation to life and health insurance companies and the amendments thereto. (*Ibid*, § 4, as amended by laws of 1869, chap. 902, § 5.)

**174.** The said companies shall deliver to the Superintendent of the Insurance Department the policy and annuity bonds, engraved and printed or printed and written, in such manner as the said Superintendent shall direct, with duplicate originals of the same duly signed. On their receipt by the Superintendent he shall cause them to be duly registered in proper books kept for that purpose, in consecutive numbers corresponding to the numbers on said policies and bonds; shall cause his name or the name of his deputy to be inscribed on the policies and bonds, and affix the seal of the department to the same, and shall return the original policies to the said depositing companies respectively. The expense necessarily incurred in registering, countersigning and sealing the said policies and annuity bonds, and in otherwise executing the provisions of this act, including the salary of the Treasurer, shall be audited and paid out of any moneys in the treasury not otherwise appropriated; and, for the purpose of reimbursing the same, the said Superintendent is hereby authorized to charge against the said depositing companies respectively an amount sufficient for such purpose, and as may be just and reasonable. It shall be the duty of the said Superintendent to receive mutilated policies and annuity bonds issued to the said companies, and deliver in lieu thereof other policies and bonds of like tenor and date, and, in case of lost policies or bonds, to furnish certified copies of the duplicates on file in his office. (*Ibid*, § 5, as amended by laws of 1869, chap. 902, § 6.)

**175.** If at any time the affairs of any life insurance company, which has deposited securities under this act or the act hereby amended, shall, in the opinion of the Superintendent of the Insurance Department, appear in such a condition as to render the issuing of additional policy and annuity bonds by said company injurious to the public interest, the said Superintendent shall report that fact to the Attorney-General, whose duty it shall then be to apply to the Supreme Court for an order requiring said company to show cause why its business should not be closed. The court shall thereupon proceed to hear the allegations and proofs of the respective parties, and in case it shall appear to the satisfaction of the said court that the assets and funds of said company are not sufficient to justify the further continuance of the business of insuring lives, granting annuities and incurring new obligations, as authorized by its charter, then the said court shall issue an order enjoining and restraining

said company from the further prosecution of its business, and shall also appoint a receiver of all the assets and credits of said company. The said receiver, upon filing his bond to the people of the State of New York in an amount and with sureties approved by said court, conditioned for the faithful performance of his duties, shall take possession of all the assets and credits of said company, except the securities deposited in the Insurance Department under the provisions of this act and the act hereby amended, which said securities shall remain in said department to be disposed of as hereinafter provided. (*Laws of 1869, chap. 902, § 7.*)

**176.** The said receiver shall, immediately on entering upon the duties of his office, appoint a competent actuary, approved by the Superintendent of the Insurance Department, who shall make a careful investigation, according to the standard fixed by the laws of this State, into the condition of said company, and report thereon in writing, under oath, to said court and receiver, and if it shall, by said report be found that the securities deposited by said company in the Insurance Department, and the assets and credits, including the future premiums that will mature on the outstanding policies and other obligations of said company, are sufficient, under the laws of this State, to pay all the policies, annuities and other obligations of said company as they may mature by the terms thereof, and the legal costs and expenses incident to the business, and if said actuary's report shall be confirmed by the court, the said receiver shall notify all the holders of said policies, annuities and other obligations, requiring them to pay to him, as such receiver, all premiums or other payments due or to become due to said company from time to time, on their respective policies, annuities or other obligations. Such notice shall be given by depositing the same in the post-office, at the place where said company has its principal business office, addressed to said parties respectively at their several residences, so far as the same can be ascertained by said receiver, and also by the publication thereof in the State newspaper, published in the city of Albany, once a week, for six successive weeks, or on the confirmation of the report of said actuary, the court may, in its discretion, direct the receiver to reinsure all registered policies in some solvent company, on the execution by said receiver of an assignment to said reinsuring company, of all securities on deposit in trust for registered policy-holders. And in case the said report of the said actuary shall show that the said securities, assets, credits and premiums are not sufficient under the laws of this State, to pay all the policies, annuities and other obligations of said company as they may mature by the terms thereof, and the legal costs and expenses of said receivership, the said receiver shall notify the said Superintendent thereof, and the Superintendent shall, with the consent and advice of the Treasurer of the State, and in such manner as the said receiver, Superintendent and Treasurer or a majority of them, shall determine, to sell and convert said securities into money; and the proceeds of such sale or sales shall be paid to the said receiver, on his giving his receipt to said Superintendent, and shall be applied by said receiver as follows: to the payment of the registered policy-holders of said company, in proportion to the net value of their policies respectively, and to the registered annuities of said company in proportion to the then present value of their respective annuities, as estimated by the legal standard for valuing life insurance and annuity obligations within this

State. The surplus derived from such sale or sales, if any there be after the payment last above-mentioned, with all the other assets of the said company, shall be then applied to the payment of all the just debts of said company incurred in the conducting and carrying on its lawful business. (*Ibid*, § 8.)

**177.** Whenever the business of any company shall be continued under the provisions of the next preceding section, in case the receipts for premiums and from all other sources shall at any time be in excess of the sums required to meet the policy and all other obligations of said company, said receiver, whenever such excess shall amount to twenty-five thousand dollars, shall invest said excess in such securities as are authorized to be deposited in the Insurance Department, and shall deposit said securities with the Superintendent of said Department in the manner herein provided. If, at any time, the funds in the hands of said receiver are not sufficient to meet such obligations of said company as they mature, he shall notify the said Superintendent of the amount required to meet the deficiency in respect thereto, and it shall become the duty of the Superintendent to sell, with the consent and advice of the Treasurer of the State, and in such manner as the receiver, Superintendent and Treasurer, or a majority of them shall determine, such portion of said securities as may be required to meet the said matured obligations, and the proceeds of such sale or sales shall be paid to said receiver, on his giving his receipt therefor to the said Superintendent, to be used as required for said matured obligations. (*Ibid*, § 9.)

**178.** On the first day of January, in every year, or within thirty days thereafter, an investigation shall be made by a competent actuary, approved by the Superintendent of the Insurance Department, into the affairs of said company, and if, upon such investigation, it shall be found that a surplus of its assets, not less in amount than ten thousand dollars, exists, after making adequate provision for meeting at maturity all the obligations of said company and all the legal expenses of said receivership, and in case of a joint-stock company, over and above the amount of its capital, such portion of said surplus as may, under the charter of said company, if a stock company, belong to its stockholders, shall be set aside and invested by said receiver in such securities as are authorized to be deposited by life insurance companies in the Insurance Department, as a contingent fund, and scrip therefor shall be issued by said receiver to said stockholders, respectively, in proportion to their respective shares, bearing six per cent. interest and payable on the final settlement of the affairs of said company as herein provided. The remainder of such surplus, if the company be a stock company, and the whole of said surplus, if it be a mutual company, shall be disposed of as follows: One-quarter of such remainder shall be reserved by said receiver and invested by him in such securities as are authorized to be deposited by life insurance companies in the Insurance Department as a contingent fund, for which scrip shall be issued by said receiver to all policy-holders entitled under their policies to share in the surplus of said company. Said scrip shall bear interest at the rate of six per cent. per annum, payable annually, and shall be redeemable on the maturity of the respective policies to which said scrip may be related. The remaining three-quarters of said surplus shall be paid by said receiver within one year from said first day of January to said policy-holders, respect-



ively, in lawful money of the United States. But no scrip shall be issued for any fractional part of a dollar, and any scrip so issued may, at any time, be called in and canceled by said receiver, without payment, if necessary, to better secure the remaining obligations of said company; and all scrip so issued shall have printed thereon a clause to this effect. If, on the final accounting of said receiver, after the liquidation of all the obligations of said company, as herein provided, and in case of a joint-stock company, the return to the respective stockholders of their respective amounts of stock and the scrip issued to them under this act, there shall remain a surplus in the hands of said receiver, it shall be divided by him among said stockholders, if a stock company, proportionately to their respective shares, as provided by the charter of said company, and the balance of said surplus among the last ten policy-holders of said company, or their legal representatives, in proportion to the amounts of their said respective policies, and, if not a stock company, among the holders of the last ten policies issued by said company, or their legal representatives, in proportion to the amount of their said respective policies. (*Ibid*, § 10.)

**179.** Any life insurance company which, by virtue of any law, is making deposit of securities and receiving registered policies, shall, after the passage of this act, make such deposit and receive such policies in accordance with this act, and not otherwise; and such company shall be authorized to issue policies and annuity bonds only such as shall be registered under this act, except such other as in this section provided, and shall, whenever required by the holders of its unregistered policies and annuity bonds, issued previous to the passage of this act, upon their compliance with the terms and conditions of such company for registered policies and annuity bonds, issue to them, respectively, registered policies and annuity bonds, in exchange for and in value equal to those previously issued to them; *Provided*, That any company availing itself of the provisions of this act may issue unregistered policies and annuity bonds, as heretofore authorized by its charter, but subject to the provisions of section eight of this act, in relation to the distribution of its assets. (*Laws of 1852, chap. 703, § 6, as amended by laws of 1869, chap. 902, § 11.*)

**180.** The receiver of any company under this act shall have all the powers incident to the successful management of its affairs; and, to that end, authority to purchase policies issued by said company, to make any other compromise in the settlement of its outstanding obligations, and to use the corporate seal of said company, whenever necessary, in the transaction of the business of his receivership. (*Laws of 1869, chap. 902, § 12.*)

**181.** The compensation of the receiver under this act shall be fixed by the Superintendent of the Insurance Department, and shall not exceed the sum of five per cent. on the amount of the assets of such company, as shall come into his possession. The receiver may employ such clerks and actuaries as he may deem necessary for the proper conducting of his business as such receiver, and the said clerks and actuaries shall be paid such reasonable compensation as he may determine, subject, however, to the approval of the Superintendent of the Insurance Department, all of which compensation to said receiver, clerks and actuaries, shall be a charge on the funds of such company, and paid out of the said funds. (*Ibid*, § 13.)



## LIFE INSURANCE FOR THE BENEFIT OF MARRIED WOMEN AND CHILDREN.

**182.** It shall be lawful for any married woman, by herself, and in her name, or in the name of any third person, with his assent, as her trustee, to cause to be insured for her sole use the life of her husband, for any definite period, or for the term of his natural life; and in case of her surviving such period or term, the sum or net amount of the insurance becoming due and payable, by the terms of the insurance, shall be payable to her to and for her own use, free from the claims of the representatives of the husband, or of any of his creditors, or any party or parties claiming by, through or under him. But when the premium paid in any year out of the property or funds of the husband shall exceed five hundred dollars, such exemption from such claims shall not apply to so much of said premium so paid as shall be in excess of five hundred dollars, but such excess, with the interest thereon, shall inure to the benefit of his creditors. (*Laws of 1840, chap. 80, § 1, as amended by laws of 1858, chap. 187, § 1, by laws of 1866, chap. 656, § 1, and by laws of 1870, chap. 277, § 1.*)

**183.** The amount of the insurance may be made payable, in case of the death of the wife before the period at which it becomes due to her husband, or to his, her or their children, for their use, as shall be provided in the policy of insurance, and to their guardian, if under age. (*Ibid, § 2, as amended by laws of 1858, chap. 187, § 2, by laws of 1862, chap. 70, § 1, and by laws of 1866, chap. 656, § 2.*)

**184.** Any policy in favor of a married woman, or of her and her children, or assigned in her, or in her and their favor, on written request of said married woman, duly acknowledged before a commissioner of deeds, or other officer authorized to take acknowledgments of deeds, in the same manner as required by law, to pass her dower right in lands of her husband, and on the written request of the policy-holder may be surrendered to and purchased by the company issuing the same in the same manner as any other policy. And such married woman may, in case she have no child or children born of her body, or any issue of any child or children born of her body, dispose of such policy in and by a last will and testament, or any instrument in the nature of a last will and testament, or by a deed duly executed and acknowledged before an officer authorized to take acknowledgments of deeds, in the same manner as required by law to pass her dower right in lands of her husband, which disposition lawfully made shall invest the person or persons to whom such policy shall have been so bequeathed, or granted and conveyed, with the same rights in respect thereto as such married woman would have had in case she survived the person on whose life such policy was issued, and such legatee or grantee shall have the same right to dispose of such policy as herein conferred on such married woman. (*Laws of 1873, chap. 821, § 1.*)

## TAXATION OF FOREIGN INSURANCE COMPANIES AND AGENTS.

**185.** There shall be paid into the treasury of this State, on the first day of February in each year, by every person who shall

act as agent for any individuals, or associations of individuals, not incorporated and authorized by the laws of this State, to effect insurances against marine losses and risks, although such individuals or associations may be incorporated for that purpose by any other State or country, the sum of two dollars upon the hundred dollars, and at that rate upon the amount of all premiums which, during the year ending on the preceding first day of September, shall have been received by such agent or any other person for him, or shall have been agreed to be paid for any insurance effected or agreed to be effected or procured by him as such agent, or against marine losses or risks. (*Laws of 1824, chap. 277; and Revised Statutes, part I., chap. 20, title 21, § 3, as amended by the laws of 1837, chap. 30 § 2, and by the laws of 1849, chap. 178, § 6.*)

**186.** No person shall, as agent for any individuals or association, effect or agree to effect any insurances, upon which the duty above mentioned is required to be paid, or as agent or otherwise procure such insurance to be effected until he shall have executed and delivered to the Comptroller a bond to the people of this State, in the penal sum of one thousand dollars, with such sureties as the Comptroller shall approve, with a condition that he will annually render to the Comptroller on the first day of February in each year, a just and true account of all premiums which, during the year ending on the first day of September preceding such report, shall have been received by him or by any other person for him, or agreed to be paid for any insurance against (marine) losses which shall have been effected by him or agreed to be effected as such agent, or which shall have been procured by him from any individuals or association not authorized as aforesaid; and that he will annually, on the first day of February in each year, pay into the treasury of this State two dollars upon the hundred dollars, and at that rate upon the amount of such premiums. (*Ibid; Revised Statutes, part I., chap. 20, title 21, § 4, as amended by the laws of 1837, chap. 30, § 2, and by the laws of 1849, chap. 178, § 6.*)

**187.** Every person who shall effect, agree to effect, or procure any insurance specified in the preceding third section of this title, without having executed and delivered such bond, shall forfeit five hundred dollars, for the use of the poor of the county where the offense shall be committed. (*Ibid, and Revised Statutes, part I., chap. 20, title 21, § 5.*)

**188.** The penalties imposed in this title shall be collected, in the name of the people of this State, by the District Attorney of the county where the offense shall be committed, for the use of the poor thereof. (*Revised Statutes, part I., chap. 20, title 21, § 6.*)

**189.** All the provisions of title twenty-first of chapter twenty of the first part of the Revised Statutes, respecting insurance on property in this State, made in foreign countries and by individuals and associations unauthorized by law, and all the prohibitions, requirements and penalties therein contained are hereby extended and applied to contracts of insurance, or by way of insurance against marine losses and risks, or by lending money on respondentia or bottomry, and to all persons, associations or companies, and agents of the same, making, effecting or procuring any such insurance or contracts, by way of insurance or loan, or any other business which marine insurance companies, incorporated by the laws of this State, may or do transact by virtue of their respective acts of incorporation. (*Laws of 1829, chap. 336, § 1.*)

**190.** There shall be paid to the Treasurer of the Fire Department of every city or incorporated village of this State, for the use and benefit of such Fire Department, and when no treasurer of a fire department exists, then to the treasurer of such city or village, who, for the purposes of this act, shall have the same powers as the treasurers of fire departments, on the first day of February in each year, by every person who shall act as agent for or on behalf of any individual or association of individuals, not incorporated by or under the laws of this State, to effect insurance against loss or injury by fire upon property in this State, although such individual or association may be incorporated for that purpose by any other State or country, the sum of two dollars upon the hundred dollars, and at that rate upon the amount of all premiums which during the year or part of a year, ending on the last preceding first day of September, shall have been received by such agent or person, or received by any other person for him, or shall have been agreed to be paid for any insurance effected or agreed to be effected, or promised by him as such agent or otherwise, to be effected against loss or injury by fire upon property, situate within the corporate limits of such city or village. (*Laws of 1875, chap. 465, § 1.*)

**191.** No person shall, as agent or otherwise for any individual, individuals or association, effect or agree to effect any insurance upon any property situate in any city or incorporated village of this State, upon which the above duty is required to be paid, or as agent or otherwise procure such insurance to be effected until he shall have executed and delivered to the Treasurer of the Fire Department of the city or village in which the property insured is situated, or if no treasurer of a fire department exists then to the Treasurer of such city or village, a bond to such Fire Department in the penal sum of five hundred dollars, with such sureties as such Treasurer shall approve, with a condition that he will annually render to said Treasurer on the first day of February in each year, a just and true account verified by his oath that the same is true of all premiums which, during the year ending on the first day of September preceding such report, shall have been received by him or by any other person for him, or agreed to be paid for any insurance against loss or injury by fire upon property situate in such city or village, which shall have been effected or procured by him, to be effected for any individual, individuals or association not incorporated by the laws of this State as aforesaid, and that he will annually on the first day of February in each year pay to said Treasurer two dollars upon every hundred dollars, and at that rate upon the amount of such premiums. (*Ibid, § 2.*)

**192.** Every person who shall effect, agree to effect, promise or procure any insurance specified in the preceding sections of this act without having executed and delivered the bond required by the preceding section shall, for each offense, forfeit two hundred dollars for the use and benefit of the Fire Department of such city or village, such penalty of two hundred dollars shall be collected by and in the name of the Fire Department of the city or village in which the property insured or agreed to be insured is situate. (*Ibid, § 3.*) None of the provisions of this act shall apply to the city of New York (*Ibid, § 4.*)

**193.** There shall be paid to the Treasurer of the Fire Department of the city of New York, for the use and benefit of said Fire Department, on the first day of February in each year, by every per-

son who shall act in the city and county of New York, as agent for or on behalf of any individual, or association of individuals, not incorporated by the laws of this State, to effect insurances against losses or injury by fire in the city and county of New York, although such individuals or associations may be incorporated for that purpose by any other State or country, the sum of two dollars upon the hundred dollars, and at that rate, upon the amount of all premiums which during the year or part of a year, ending on the next preceding first day of September, shall have been received by such agent or person, or received by any other person for him, or shall have been agreed to be paid for any insurance effected or agreed to be effected or promised by him, as such agent or otherwise, against loss or injury by fire in the city and county of New York. (*Laws of 1849, chap. 178, § 1.*)

**194.** No person shall, in the city and county of New York, as agent or otherwise, for any individual, individuals, or association, effect or agree to effect any insurance, upon which the duty above mentioned is required to be paid, or as agent or otherwise procure such insurance to be effected, until he shall have executed and delivered to the said Treasurer a bond to the Fire Department of the city of New York, in the penal sum of one thousand dollars, with such sureties as the said Treasurer shall approve, with a condition that he will annually render to the said Treasurer on the first day of February in each year, a just and true account, verified by his oath, that the same is just and true, of all premiums, which during the year ending on the first day of September preceding such report, shall have been received by him or by any other person for him, or agreed to be paid for any insurance against loss or injury by fire in the city and county of New York, which shall have been effected or promised by him, or agreed to be effected or promised by him to be effected, from any individual or individuals, or association not incorporated by the laws of this State as aforesaid; and that he will annually, on the first day of February in each year, pay to the said Treasurer two dollars upon every hundred, and at that rate, upon the amount of such premiums. (*Ibid, § 2.*)

**195.** Every person who shall effect, agree to effect, promise, or procure any insurance specified in the preceding sections of this act, without having executed and delivered the bond required by the preceding section, shall for each such offense forfeit one thousand dollars for the use of the said Fire Department; such penalty of one thousand dollars shall be collected in the name of the Fire Department of the city of New York. (*Ibid, § 3.*)

**196.** Sections one, two, three and four of an act entitled "An act further to amend the acts in relation to insurances on property in this State, made by individuals and associations unauthorized by law," passed March thirty, eighteen hundred and forty-nine, so far as the said sections are applicable to the city and county of New York, but no further, are hereby repealed, and the following ten sections are substituted therefor; *Provided, however,* That any corporation or association created by or organized under the laws of any government other than the States of this Union, and having assets, funds or capital, not less in amount than one hundred and fifty thousand dollars, invested in this State, shall be liable to taxation upon such assets, funds or invested capital, as the same is levied or assessed yearly by law, which tax shall be paid as follows: Such an amount thereof as would be equal to two per cent. upon



its gross premiums received for insurances upon property in the city of New York, shall be paid annually, as herein before provided, to the Treasurer of the Fire Department of the city of New York, and the residue of said tax requisite to make up the full amount of taxation upon its capital as herein before provided, shall be paid to the Mayor, Aldermen and Commonalty of the city of New York, as in the case of ordinary taxation; and the payments so made as aforesaid shall exempt such corporation or association making the same from any and all further taxation upon its premiums, capital or assets; and whenever such capital shall be reduced below said sum of one hundred and fifty thousand dollars, or withdrawn entirely, then and in either event such corporation or association shall be liable to pay the tax upon its premiums as heretofore provided in this act. (*Laws of 1857, chap. 548, § 1, as amended by laws of 1858, chap. 255, § 1.*)

**197.** There shall be paid to the Treasurer of the Fire Department of the city of New York, for the use and benefit of said Fire Department on the first day of February in each year, by every person who shall act in the city and county of New York as agent for or on behalf of any individual or association of individuals, not incorporated by the laws of this State, to effect insurances against losses or injury by fire in the city and county of New York, although such individuals or association may be incorporated for that purpose by any other State or country, the sum of two dollars upon the hundred dollars, and at that rate upon the amount of all premiums which during the year ending on the next preceding first day of September, shall have been received by such agent or person, or received by any other person for him, or shall have been agreed to be paid for any insurance against loss or injury by fire in the city and county of New York, effected or agreed to be effected or promised by him as such agent. (*Ibid, § 1, sub. 1.*)

**198.** Every person who shall act in the city and county of New York as agent as aforesaid, shall, on the first day of February, in each year, render to the said Treasurer of the Fire Department a just and true account, verified by his oath, of all such premiums which, during the year ending on the first day of September preceding, shall have been received by him, or by any person for him, or which shall have been agreed to be paid, for any such insurance effected or agreed to be effected, or promised by him. (*Ibid, § 1, sub. 2.*)

**199.** No person shall, as agent or otherwise, effect or agree to effect, or procure to be effected, any insurance upon which the duty above mentioned is required to be paid, until he shall have executed and delivered to the said Treasurer an undertaking, under seal, to the Fire Department of the city of New York, with such sureties as the said Treasurer shall approve, that he will annually render to the said Treasurer, on the first day of February, in each year, a just and true account, verified by his oath, of all such premiums, which, during the year ending on the first day of September preceding, shall have been received by him or by any person for him, or which shall have been agreed to be paid for any such insurance effected or agreed to be effected, or promised by him, and that he will annually, on the first day of February in each year, pay to the said Treasurer two dollars upon every hundred dollars, and at that rate upon the amount of such premiums. (*Ibid, § 1, sub. 3.*)

**200.** Whenever, by reason of failure of the sureties, or either

of them, or for any other cause, an undertaking given under the last preceding section, shall or may be deemed insufficient by the said Treasurer to secure a return of the account and the payment of the duty aforesaid, or either of them, the said Treasurer, at his election, but not oftener than once in each year, may require such undertaking to be renewed. (*Ibid*, sub. 4.)

**201.** Every person who shall effect, agree to effect, promise or procure any insurance mentioned in the first four sections of the said act as hereby amended, without having executed and delivered the undertaking required by the third section of said act as hereby amended, shall for each offense forfeit one thousand dollars, for the use of the said Fire Department; and every person who shall have been required by the said Treasurer to renew his undertaking pursuant to the fourth section of said act, as hereby amended, who shall effect, agree to effect, promise or procure any such insurance, without having executed and delivered the renewed undertaking required by said last mentioned fourth section, shall for each offense forfeit one thousand dollars, for the use of the said Fire Department. (*Ibid*, sub. 5.)

**202.** It shall be lawful for the said Treasurer of the Fire Department, on or after the first day of February in each year, by written or printed demand signed by him, to require from every person who shall act in the city and county of New York, as agent as aforesaid, the account provided for in the second section of said act as hereby amended, and payment of the duty provided for in the first section thereof; such demand may be delivered personally to such agent, or at his office or place of business to any person having charge thereof, or at his residence to any person of suitable age. And every such agent who shall for ten days after such demand, neglect to render the account or to pay the duty demanded, or either of them, shall forfeit fifty dollars for the use of the said Fire Department; and he shall also forfeit for their use twenty-five dollars in addition for every day that he shall so neglect, after the expiration of said ten days, and such additional penalty may be computed and recovered up to the time of the trial of any suit for the recovery thereof. (*Ibid*, sub. 6.)

**203.** Every person who shall act in the city and county of New York as agent as aforesaid, shall, on the first day of February in each year, or within ten days thereafter, and as often in each year as he shall change his place of business in the said city, report in writing under his proper signature to the Comptroller of the State and also to the Treasurer of the said Fire Department, the street and the number thereof in the said city of his place of business as such agent, designating in such report the individual or individuals and association or associations for which he shall be such agent. And in case of default in any of these particulars, such person shall forfeit for every offense the sum of one thousand dollars, for the use of the said Fire Department. (*Laws of 1849, chap. 178, § 4, as amended by laws of 1857, chap. 548, § 1, sub. 7.*)

**204.** The duty provided to be paid by the first section of said act as hereby amended, the damages for any breach of the undertakings, or either of them, provided for in the third and fourth sections thereof, and the pecuniary penalties imposed by said act as hereby amended, or any or either of them, may be sued for and recovered, with costs of suit, in any court of record within this State

by the Fire Department of the city of New York in their own name and for their own use. (*Laws of 1857, chap. 548, § 1, sub. 8.*)

**205.** The defendant in any action to be brought for the recovery of any penalty incurred or any duty or sum of money payable under said act as hereby amended, may be arrested, if he is not a resident of this State, or is about to remove therefrom. An order for the arrest of the defendant must be obtained from a judge of the court in which the action is brought, or from a county judge. The order shall be made when it shall appear to the judge by affidavit that a sufficient cause of action exists under said act as hereby amended, and that the defendant is not a resident of this State, or is about to remove therefrom. (*Laws of 1857, chap. 548, § 1, sub. 9.*)

**206.** The provisions of chapter one of title seven of an act entitled "An act to amend the act entitled 'An act entitled to simplify and abridge the practice, pleadings and proceedings of the courts of this State,' passed April twelfth, eighteen hundred and forty-eight," passed April eleventh, eighteen hundred and forty-nine, and which chapter is entitled "Arrest and bail," from and including section one hundred and eighty-two to the end of said chapter, shall apply to any arrest under the ninth section of said act as hereby amended and to the proceedings thereupon. (*Ibid, sub. 10.*)

**207.** The repeal by the first section of this act shall not affect any prosecution or action commenced, or penalty, duty or liability incurred, or cause of action accrued prior to the passage of this act, but every such action or prosecution may lawfully proceed, and every such penalty, duty or liability may be demanded and recovered as if the sections one, two, three and four repealed as aforesaid had remained in full force. (*Ibid, § 2.*)

#### MISCELLANEOUS PROVISIONS RELATING TO INSURANCE COMPANIES.

**208.** The directors of any corporation organized under any general act for the formation of companies, in whose original certificate of incorporation any informality may exist, by reason of an omission of any matter required to be therein stated, are hereby authorized to make and file an amended certificate or certificates of incorporation, to conform to the general act under which said corporation may be organized; and upon the making and filing of such amended certificate, the said corporation shall, for all purposes, be deemed and taken to be a corporation from the time of filing such original certificate. (*Laws of 1870, chap. 135, § 1.*)

**209.** Nothing in this act contained shall in any manner affect any suit or proceeding at the time of filing such amended certificate pending against said corporation, or impair any rights already accrued. (*Ibid, § 2.*)

**210.** Whenever any insurance company, organized under any of the laws of this State, shall have invested any of its funds in the stock of other incorporated companies, under and in pursuance of the laws of this State, and the Superintendent of the Insurance Department shall have reason to believe that such stock is below par, he may direct any such company to report to him under oath the amount of such stock so held by any such company, and the market value thereof is below par, he may direct the sale (under such regulations as he may establish), of such stock by such insurance companies. (*Laws of 1875, chap. 423, § 1.*)

**211.** It shall be lawful for any life, fire or marine insurance company organized under any of the laws of this State, and transacting business in other States of the United States, to invest the funds required to meet its obligations incurred in such other States, respectively, in the same class of securities, in those States that such corporations are by law allowed to invest in, in this State, but this act shall not be construed as authorizing, nor does it permit any such corporation to loan moneys on mortgage upon real estate without the limits of this State and States adjacent thereto. (*Ibid*, § 2.)

**212.** Every person becoming a member of any mutual insurance company now incorporated under any law of this State in any of the counties of this State, by effecting insurance therein, shall, before he receives his policy, deposit his promissory note for such a sum of money as shall be determined by the directors of said company; such part of said note, not exceeding twenty per cent. as shall be required by the by-laws of the corporation, shall be immediately paid, and the remainder of the said deposit note shall be payable, in whole or in part, as the exigencies of the company shall require, for the payment of losses by fire and the incidental expenses of the company. At the expiration of the term of insurance, the said note or such part of the same as shall remain unpaid after receiving thereon from the maker a proportionate share for all losses and expenses occurring during said term, shall be relinquished by the company to the maker, and it shall be lawful for the company to loan such portion of the money as may not be immediately wanted for the use of the corporation, provided the same shall be secured by a bond and a mortgage on unincumbered real estate, of double the value of the sum loaned. (*Laws of 1848, chap 205, § 1.*)

**213.** Any mutual insurance company heretofore incorporated in this State, whose charter limits the amount to be paid down upon premium notes to a sum not exceeding five per cent., may loan such portion of the said five per cent. as may not be immediately wanted for the purposes of the corporation, upon good and ample security by bond or promissory notes. (*Laws of 1840, chap. 287, § 1.*)

**214.** All bonds and promissory notes heretofore taken by any such mutual insurance company for money loaned, shall be valid, and may be collected by such company. (*Ibid*, § 2.)

**215.** Every insurance company or association for fire, marine, or life risks, conducted on the mutual principle or otherwise, now or hereafter incorporated or organized, or doing business under any general or special law of this State, on or before the first day of September next, and annually thereafter shall cause to be published for six successive weeks, in one public newspaper printed in the county in which such company or association may be located, and in the State paper, a true and accurate statement, verified by the oath of the treasurer or presiding officer, of all dividends and interests declared and payable upon any of the stock, bonds, or other evidence of indebtedness of said company or association, which, at the date of such statement, shall have remained unclaimed by any person or persons authorized to receive the same, for two years then next preceding; and the word "dividend" shall include all scrip issued or declared due for unpaid earnings or profits. (*Laws of 1855, chap. 75, § 2.*)

**216.** In case the corporation in regard to which a receiver has been or shall hereafter be appointed is or shall be a mutual insurance company, such receiver shall have full power, under the author-



ity and sanction of the court appointing him, to make all such assessments on the premium notes belonging to such corporation as may be necessary to pay the debts of such corporation, as by the charter thereof the directors of such corporation have authority to make; and the notice of such assessment may be given in the same manner as is provided in the charter of said company for the directors of said company to give; and the said receiver shall have the like rights and remedies upon and in consequence of the non-payment of such assessments as are given to the corporation or the directors thereof by the charter of such corporation. (*Laws of 1852, chap. 71, § 2.*)

**217.** Such receiver is authorized to receive a voluntary surrender of all policies issued by such corporation, or to cancel the policies issued by such corporation, in all cases where, by the charter of such corporation, the directors thereof are authorized to receive the surrender of or cancel the policies issued by such corporation. (*Ibid, § 3.*)

**218.** The court by which any such receiver may have been or shall be appointed is authorized, upon a proper action instituted for that purpose by such receiver, to examine by a reference or otherwise as it may deem proper into the proceedings and acts of such corporation; and if it shall appear upon such examination that the directors or officers of such corporation, or either or any of them, have in any manner misapplied or improperly disposed of the funds, property, or effects of such corporation, it shall be lawful for such court to decree that such directors or officers of such corporation as shall have been guilty of such misapplication or improper disposition of such funds, property, or effects, to pay the same to such receiver, and to enforce such decree by such process as may be necessary to accomplish that object. (*Ibid, § 4.*)

**219.** Whenever any insurance company or corporation shall have made an assignment of its property and effects to any person or persons in trust for the benefit of all its creditors, and such trust shall, from any cause, have become vested in the Supreme Court, the person or persons appointed by the said court for the purpose of executing such trust shall have and possess all the powers and authority conferred, and be subject to all the obligations and duties imposed, in article third, title four, part third, and chapter eight of the Revised Statutes, upon receivers appointed in case of the voluntary dissolution of a corporation; and shall, in addition thereto, have and possess the same power and authority conferred, and be subject to the same duties and obligations imposed, upon receivers in certain cases by the act entitled "An act to facilitate the collection of debts against corporations," passed March nineteenth, eighteen hundred and fifty-two, and shall in all respects be subject to the control and direction of the said court. (*Laws of 1854, chap. 224, § 1.*)

**220.** No member of any mutual fire insurance company, organized under the laws of this State, shall be allowed to vote by proxy for a director or directors of any such company. (*Laws of 1851, chap. 188, § 1.*)

**221.** Limited partnerships for the transaction of any mercantile, mechanical or manufacturing business, within this State, may be formed by two or more persons, upon the terms, with the rights and powers, and subject to the conditions and liabilities, herein prescribed; but the provisions of this title shall not be construed to

authorize any such partnership for the purpose of banking or making insurance. (*Laws of 1822, chap. 244, § 2, and Revised Statutes, part. II., chap. IV., title 1, § 1.*)

**222.** All fire, marine, and life insurance companies now required, or which may hereafter be required, to make annual statements to the Insurance Department, for the year ending on the last day of December, are hereby authorized and empowered to change the date of the termination of their fiscal year to the thirty-first day of December; and all statements, reports, dividends, and balances, now required by law to be made, and all other acts required to be done by said companies, at the termination of their fiscal year or years, or within a limited time thereafter, may be made out and done on the last day of December, and within the same period thereafter, in lieu of such other days of the year, or periods of time, as are now designated by their charter or otherwise. (*Laws of 1861, chap. 326, § 2.*)

**223.** The public officers having by law the care and custody of town, village, city or county buildings, are hereby authorized to insure the same at the expense and for the benefit of the town, village, city, or county owning the same. (*Laws of 1847, chap. 294.*)

**224.** The trustee or trustees of any school-district in this State are hereby authorized, if a majority of the legal voters present shall, at any regularly called school-district meeting, so direct, to insure the school-house or school-houses belonging to said district, in any insurance company organized and established under the laws of this State; and they are hereby empowered to comply with all the conditions of insurance of any such company. (*Laws of 1860, chap. 314.*)

**225.** It shall be lawful for any married woman, being a stockholder or member of any bank, insurance company (other than mutual fire insurance companies), manufacturing company, or other institution incorporated under the laws of this State, to vote at any election for directors or trustees by proxy or otherwise in such company of which she may be a stockholder or member. (*Laws of 1851, chap. 321.*)

## SERVICE OF PROCESS ON INSURANCE AND OTHER CORPORATIONS.

**226.** Every insurance and other corporation created by the laws of any other State, doing business in this State, shall, within thirty days after the passage of this act, designate some person residing in each county where such corporation transacts business, on whom process issued by authority of, or under any law of this State may be served, and within the time aforesaid shall file such designation in the office of the Secretary of State; and a copy of such designation, duly certified by said officer, shall be evidence of such appointment; and it shall be lawful to serve on such person so designated any process issued as aforesaid; such service shall be made on such person in such manner as shall be prescribed in case of service required to be made on any resident of this State, and such service shall be deemed a valid service thereof. (*Laws of 1855, chap. 279, § 1.*)

**227.** In all cases where such designation shall not be made as aforesaid, and such foreign corporation can not be served with such

process according to the present provisions of law, it shall be lawful to serve such process on any person who shall be found within this State acting as the agent of said corporation, or doing business for them. (*Ibid*, § 2.)

**228.** Service made in accordance with any provision of this act shall be as effectual as if made in the form and manner required by law, and shall be deemed a full compliance with any statute requiring personal or other service to be made. (*Ibid*, § 3.)

**229.** The term process in this act, shall be held and deemed to include any writ, summons, or order, whereby any action, suit or proceeding shall be commenced or which shall be issued in or upon any action, suit or proceeding, by any court, officer or magistrate. (*Ibid*, § 4.)

#### DEPOSIT OF SECURITIES BY PLATE-GLASS INSURANCE COMPANIES.

**230.** Any company heretofore or hereafter organized under the laws of this State to make insurance against loss or damage to plate-glass, exclusively, shall be required to deposit with the Superintendent of the Insurance Department, for the benefit of all their policy-holders, securities amounting to at least fifty thousand dollars; and no company created by the laws of any other State of the United States, with authority to insure against loss or damage to plate-glass, shall be permitted to transact business in this State without having previously deposited, for the benefit of their policy-holders, securities amounting to at least fifty thousand dollars, with the Auditor, Comptroller, Treasurer or chief financial officer of the State by whose laws said company is incorporated. Such deposits shall consist of the same securities in character and description as are required to be made by companies under the act providing for the formation of life and health insurance companies, and in relation to agencies of such companies, passed June twenty-fourth, one thousand eight hundred and fifty-three, and the amendments and additions thereto. (*Laws of 1873, chap. 617, § 1.*)

#### STEAM BOILER INSPECTION AND INSURANCE.

**231.** All steam users, manufacturers, or corporations possessing the guaranteed certificates, unrevoked and in full life, of any fire insurance company now incorporated, or hereafter incorporated, or of any company organized or hereafter organized for the purpose of making guaranteed steam boiler inspections, and which have complied with the insurance laws of the State of New York, having duly filed a statement with the Superintendent of Insurance or other authorized officer, of its conditions, and duly paid license fees and taxes, shall be exempt from any further inspections and from the pains and penalties of the above-named acts. (*Laws of 1874, chap. 614, § 1.*)

**232.** Any company authorized by the first section of this act for the purpose of making guaranteed steam boiler inspections, and which have complied with the law set forth in the first section of this amended act, shall, at least once in each month, make and file returns under oath with the Inspector-in-chief, except in the city and county of New York, and for said city and county with the

Board of Commissioners of Police, of all inspections made by them of steam boilers and of all certificates issued by them, and those at the time of making said return either in full force, unrevoked or canceled. Each and every company so authorized and making insurance under the provisions of this act, and failing to make said returns as aforesaid, shall pay the penal sum of fifty dollars for each and every failure or neglect to make and file said returns, the same to be recovered by suit to be brought by said Inspector-in-chief, except in the city and county of New York, and in said city and county by said Commissioners of Police. (*Ibid*, § 2.)

### COMPANIES FOR THE RECOVERY OF STOLEN HORSES, CATTLE AND SHEEP, AND TO INSURE AGAINST THEIR LOSS.

**233.** It shall be lawful for any number of persons, not less than twenty, residing in this State, to form themselves into an incorporated company for the purpose of mutual insurance against loss or damage, by having had stolen any horse or horses, cattle or sheep, or any loss or expense incurred in recovering such animals as may have been so stolen, or in the apprehension of the thief or thieves, which corporation shall possess the usual powers and be subject to the usual duties of corporations, as defined in title three, chapter eighteen, part first of Revised Statutes, and the corporate name whereof shall embrace the name of the town in which the business office of said company shall be located. (*Laws of 1859, chap. 168, § 1.*)

**234.** Every company so formed shall choose of their number not less than five nor more than nine directors, to manage the affairs of such company, who shall hold their office for one year, and until others are elected, and such directors shall choose one of their number President and one as Secretary. (*Ibid*, § 2.)

**235.** The directors of such company shall file their articles of association, together with a copy of their by-laws and the names of the officers of such company, in the Town Clerk's office of the town in which the office of such company is located, and which town shall be the residence of the Secretary of said company, and said Secretary shall keep a record of their proceedings in a book to be kept for that purpose, together with the names of the persons insured, and the amount each person is insured, which record shall be open for the inspection of all the members of such company from nine o'clock A. M. to four o'clock P. M. of each secular day, the established holidays excepted. (*Ibid*, § 3.)

**236.** The company may issue policies signed by their President and Secretary, agreeing in the name of such company to pay all damages which may be sustained from the stealing of such animals, and the recovery thereof, and the apprehension of the thief or thieves, for a term not exceeding five years, by the holders of such policies, not exceeding the sum named in said policy, and which shall not exceed the sum of five hundred dollars. (*Ibid*, § 4.)

**237.** Every person so insured shall give his undertaking to said company, bearing even date with said policy so issued to him, binding himself, his heirs and assigns, to pay his *pro rata* share to the company, of all losses by the stealing and recovery of such animals, and the apprehension of the thief or thieves, which may be



sustained by any member thereof, and every such undertaking shall within five days after the execution thereof, be filed by the secretary of such company, in the Town Clerk's office of the town in which the office of said company is located, and shall remain permanently on file in such office, except when required to be produced in evidence in court, and when so used shall be immediately returned to said office of said Town Clerk. He shall also, at the time of effecting such insurance, pay such per centage in cash, and such reasonable sum for a policy, as may be required by the rules or by-laws of said company. (*Ibid*, § 5.)

**238.** Every member of such company who may sustain damages or loss by the stealing of such animals, the expense of the recovery thereof, and necessary expense of the apprehension of the thief therein, shall immediately notify the president or secretary of said company, who shall forthwith convene the directors, whose duty it shall be when so convened, to appoint a committee of not less than three nor more than five members of such company, to ascertain the amount of such loss or damage; and in case of the inability of the parties to agree upon the amount of such loss or damage, the claimant may appeal to the county judge of the county, whose duty it shall be to appoint, by a writing signed by him, three disinterested persons, as a committee of reference, who shall have full authority to examine witnesses and to determine all matters of dispute, who shall make their award in writing to the president or secretary of such company within twenty days after the hearing, which award so made shall be final. The said committee of reference shall each be allowed two dollars per day for each day's service so rendered, and which shall be paid by the claimant, unless the said award of said committee shall exceed the sum offered to be paid by the company in liquidation of such loss or damage, in which case said expenses shall be paid by the company. (*Ibid*, § 6.)

**239.** Whenever the amount of any loss or damages shall have been ascertained which exceeds in amount the cash funds of the company then on hand, the president shall convene the directors of said company, who shall make an assessment upon each member of the company in proportion to the amount insured by him, sufficient to pay such loss and damages, and a sum not exceeding ten per cent. in addition thereto, to be determined by said directors. (*Ibid*, § 7.)

**240.** It shall be the duty of the secretary, whenever such assessment shall have been completed, to immediately notify every person composing such company, by letter sent to him post-paid at his usual post-office address, of the amount of such loss and damages, and of the sum due from him as his share thereof, and of the time when and to whom payment is to be made, but such time shall not be less than thirty nor more than ninety days from the date of such notice, and every such person so designated to receive such money, may demand and receive two per cent. in addition to the amount due on such assessment, for his fees in receiving and paying over such money. (*Ibid*, § 8.)

**241.** Actions at law may be brought against any member of such company, who shall neglect or refuse to pay any such assessment made upon him or them, under the provisions of this act, and the directors of any such company so formed who shall willfully refuse or neglect to perform the duties imposed upon them by this act, shall be liable in their individual capacity, to the person or persons sustaining such loss or damage. (*Ibid*, § 9.)

**242.** The directors of such company shall be chosen by ballot at the annual meeting of the members of the company, which shall be held on the second Tuesday of January in each year, at the business office of said company, and every person insured shall have one vote, but no person shall be allowed to vote by proxy at such elections. (*Ibid*, § 10.)

**243.** It shall be the duty of the secretary of every such company to prepare a statement showing the condition of such company on the day preceding their annual meeting, verified by the affidavit of said secretary attached thereto; which statement shall contain the number of policies issued, and all other matters pertaining to the interests of such company; which statement shall be filed in the office of the Clerk of the town in which such company is located, on or before the twenty-fifth day of January in each year, and which statement shall also be read to the members of such company when assembled at their annual meeting. (*Ibid*, § 11.)

**244.** Any member of such company may withdraw therefrom at any time, by giving notice in writing to the president or secretary of such company twenty days prior to such withdrawal, and paying his share of all claims then existing against said company; and the directors, or a majority thereof, shall have power to annul any policy, by giving twenty days' notice, in writing, of their intention to do so, to the holder of such policy, and when so annulled said policy shall be void, and the undertaking given on issuing said policy shall also be void. (*Ibid*, § 12.)

**245.** The company so formed may adopt such by-laws for its regulation as are not inconsistent with the provisions of this act, and may therein prescribe the compensation of its officers. (*Ibid*, § 13.)

**246.** No company formed under this act shall continue for a longer period than thirty years. (*Ibid*, § 14.)

**247.** If any controversy or disagreement shall arise between the receiver of an insolvent or dissolved mutual insurance company, in the settlement of any demand or claim against any member or stockholder of the company of which he is a receiver, or any other person, or if after personal demand for payment of such demand or claim shall have been made, and the payment of the sum claimed be neglected or refused, the same may be referred to a sole referee who may be agreed upon by the receiver and the person against whom such demand or claim is made, by a writing to that effect signed by them, or upon application to any justice of the Supreme Court residing in the district where such receiver keeps his office as herein stated, and all controversies relating to such receiver's business may be referred to one referee in the discretion of the court. Such referee shall be appointed upon ten days' notice to the adverse party. (*Laws of 1862, chap. 412, § 1.*)

**248.** The referee so appointed shall proceed in a summary manner to hear the proofs and allegations of the parties, upon written or oral pleadings, and shall have the same powers and be subject to the same duties and obligations, and shall receive the same compensation as referees appointed by the Supreme Court in personal actions pending therein, and upon his report a judgment may be entered in said court, and be the judgment of said court, in the same manner; and the Supreme Court, may, on appeal from said judgment to the General Term, set aside the report of the said referee; but no appeal from such judgment shall suspend or delay

the execution thereon, unless there shall be filed with the notice of appeal to the Clerk of the Court a certificate of a justice of the Supreme Court, to the effect that there is probable error in the said judgment, nor unless security be given to the satisfaction of said justice for the payment of said judgment and the costs of the appeal, if said judgment be affirmed. (*Ibid*, § 2.)

**249.** All controversies before said referee shall be brought to a hearing upon notice to the adverse party, the same as now required by the rules and practice of the Supreme Court. (*Ibid*, 3.)

**250.** The referee so appointed, at any time after his appointment, and without an issue of fact joined, shall have the same power and authority to issue a commission to examine witnesses relating to any controversy before him as a justice of the peace now has. (*Ibid*, § 4.)

**251.** The Supreme Court shall have power to refer all actions now pending therein, wherein any such receiver is a party, and where any controversy arises as mentioned in the first section of this act, such reference shall in no way prejudice the proceedings already had. (*Ibid*, § 5.)

**252.** The prevailing party shall recover the disbursements to the controversy only. This act shall not affect the costs already made and actions pending, and the costs now incurred in actions pending shall abide the event of the action, not to exceed twenty dollars in cases where no judgment has been entered. Costs on appeal may be allowed in the discretion of the court, and may be absolute or directed to abide the event of the action. (*Ibid*, § 6.)

#### NEW YORK BOARD OF FIRE UNDERWRITERS.

**253.** The president of the Home Insurance Company, the president of the Continental Insurance Company, the president of the Security Insurance Company, the president of the International Insurance Company, the president of the Howard Insurance Company, the president of the Star Fire Insurance Company, the president of the Knickerbocker Insurance Company, the president of the Germania Fire Insurance Company, the president of the importers and Traders' Insurance Company, the president of the Aetna Insurance Company, the president of the Commerce Fire Insurance Company, the president of the Astor Fire Insurance Company, the president of the City Fire Insurance Company, the president of the Relief Fire Insurance Company, the president of the Niagara Fire Insurance Company, the president of the Hamilton Fire Insurance Company, the president of the Arctic Fire Insurance Company, the president of the Empire Fire Insurance Company, the president of the American Exchange Fire Insurance Company, the president of the Firemen's Insurance Company, the president of the Greenwich Insurance Company, the president of the Excelsior Fire Insurance Company, the president of the Atlantic Fire Insurance Company, the president of the Lenox Fire Insurance Company, the president of the Long Island Insurance Company, the agent of the Royal Insurance Company, the president of the New York Equitable Insurance Company, the president of the Manhattan Insurance Company, the president of the New York Fire Insurance Company, the president of the Citizens' Insurance Company, the president of the Broadway Insurance Company, the president of the Phenix Fire

Insurance Company, Brooklyn, New York, the president of the Metropolitan Insurance Company, the president of the Columbia Fire Insurance Company, the president of the Guardian Fire Insurance Company, the president of the Humboldt Fire Insurance Company, the president of the Commercial Fire Insurance Company, the president of the Union Mutual Insurance Company, the president of the Kings County Fire Insurance Company, the president of the Gebhard Fire Insurance Company, the president of the Hoffman Fire Insurance Company, the president of the Peter Cooper Fire Insurance Company, the president of the Rutgers Fire Insurance Company, the president of the Stuyvesant Insurance Company, the president of the Park Fire Insurance Company, the president of the Globe Fire Insurance Company, the president of the Firemen's Fund Insurance Company, the president of the Williamsburgh City Fire Insurance Company, the president of the Yonkers and New York Fire Insurance Company, the president of the Brooklyn Fire Insurance Company, the president of the American Fire Insurance Company, the president of the Pacific Fire Insurance Company, the president of the People's Fire Insurance Company, the president of the Washington Insurance Company, the president of the La Fayette Fire Insurance Company, for the time being, and all other persons, the presidents or other officers for the time being, of any incorporated company or associations, and any agent doing the business of fire insurance in the city of New York, who may become associated with them, are hereby created a body corporate, by the name of "The New York Board of Fire Underwriters," with perpetual succession, and power to use a common seal, and to alter the same at pleasure, to sue and be sued, to take and hold by grant, purchase and devise real and personal property, to an amount not exceeding one hundred thousand dollars in value, for the purposes of said corporation, and to sell, convey, lease and mortgage the same, or any part thereof, subject, however, to the laws of this State in relation to devises. (*Laws of 1867, chap. 846, § 1.*)

**254.** The purposes of this corporation shall be to inculcate just and equitable principles in the business of insurance; to establish and maintain uniformity among its members in policies or contracts of insurance, and to acquire, preserve and disseminate valuable information relative to the business in which they are engaged. (*Ibid, § 2.*)

**255.** Thirty members of the Board shall constitute a quorum for the transaction of business. (*Ibid, § 3.*)

**256.** The officers of this corporation shall be a president, vice-president, a secretary, a treasurer, and such others as may be provided for in the by-laws. They shall hold their respective offices for one year, and until others may be regularly chosen in their places. The first election for officers shall be held on the third Monday of May, eighteen hundred and sixty-seven, and future elections shall be held annually, at such time and place as may be provided for in the by-laws. To enable a person to vote at the first election, he shall present authority from the company which he represents to join this corporation and to vote for its officers. Such election shall be made by ballot under the inspectors, who shall be members of this corporation, and appointed thereby; and the persons having a majority of the votes of all members present and voting shall be elected to the several offices designated on the ballots. If it shall happen that an election of officers shall not be held on the day when



it should have been made, it shall be lawful, on any subsequent day, to hold such election, in such manner as shall be prescribed in the by-laws. (*Ibid*, § 4.)

**257.** The said corporations shall have power to make all needful by-laws, not contrary to the provisions of this act or to the constitution and laws of this State or of the United States. (*Ibid*, § 6.)

**258.** The said corporation shall have power to provide suitable rooms for the transaction of its business, and also to provide a patrol of men and a competent person to act as superintendent, to discover and prevent fires, with suitable apparatus to save and preserve property or life at and after a fire; and the better to enable them so to act with promptness and efficiency, full power is given to such superintendent and to such patrol to enter any building on fire, or which may be exposed to or in danger of taking fire from other burning buildings, and at once proceed to protect and endeavor to save the property therein, and to remove such property, or any part thereof, from the ruins after a fire. Nothing in this act, however, shall warrant any interference with the action of the fire-men in their duties in extinguishing a fire, and the said superintendent and the members of said patrol, while on duty at a fire, shall, in all respects, be subordinate to and under the control of the Board of Metropolitan Fire Commissioners. (*Ibid*, § 7.)

**259.** In the month of June, eighteen hundred and sixty-seven, and in the month of June of every second year thereafter, there shall be held a meeting of the corporation hereby created, of which ten days' previous notice shall be inserted in at least two newspapers published in the city of New York, at which meeting each incorporated insurance company or association doing business in the city of New York, whether its officers or its agents be members of this corporation or not, shall have the right to be represented by one of such officers or by its agent; and each organization represented at such meeting shall be entitled to one vote. A majority of the whole number so represented shall have power to decide upon the question of sustaining the fire patrol hereinbefore mentioned, and of fixing the maximum amount of expenses which shall be incurred therefor during the two fiscal years next to ensue, which amount shall in no case exceed two per centum on the aggregate of premiums returned, as received, as provided in section eight of this act; and the whole of such amount, or so much thereof as may be necessary, may be assessed upon the organizations belonging to this corporation, and upon all other organizations and agencies as hereinbefore mentioned, in proportion to the several amounts of premiums returned as received by each, as hereinafter provided, and such assessment shall be collectable by this corporation in any court of law in the city or State of New York having jurisdiction. (*Ibid*, § 8.)

**260.** To provide for the payment of persons employed under the provisions of this act, and to maintain the apparatus for saving life and property contemplated, this corporation is empowered to require a statement to be furnished semi-annually, by all corporations, associations, underwriters, agents or persons, of the aggregate amount of premiums received for insuring property in the city of New York, for and during the six months next preceding the thirtieth day of June, and the thirty-first day of December of each

year, which statement shall be sworn to by the president and secretary of the corporation or association, or by the agent or person so acting and affecting such insurances in said city, and shall be handed to the Treasurer of this corporation within thirty days after the time to which such returns are to be made. (*Ibid*, § 9.)

**261.** It shall be lawful for the Treasurer, or other appointed officer, of this corporation, within ten days after the first day of January and the first day of July in each year, by written or printed demand, signed by him, to require from every corporation, association, underwriter, agent or person engaged in the business of fire insurance in the city and county of New York, the statement provided for in the last preceding section of this act. Such demand may be delivered, personally, at the office of such corporation, association, agent or person, or at the residence of the proper officer of such corporation, association, agent or person; and every officer of such corporation or association, and every individual agent or underwriter, who shall, for thirty days after such demand, neglect to render the account, shall forfeit fifty dollars for the use of the corporation created by this act, and he shall, also, forfeit for their use twenty-five dollars, in addition, for every day he shall so neglect after the expiration of said thirty days; and such additional penalty may be computed and recovered up to the time of the trial of any suit for the recovery thereof, which penalties may be sued for and recovered, with costs of suit, in any court of record within this State, having jurisdiction by and in the name of the corporation hereby created. (*Ibid*, § 10.)

**262.** The corporation created by this act shall possess the general powers, and be subject to the restrictions and liabilities prescribed in the third title of the eighteenth chapter of the first part of the Revised Statutes. (*Ibid*, § 11.)

### NEW YORK UNDERWRITERS' GUILD.

**263.** It shall and may be lawful for any number of fire insurance companies, not less than five, that now are or may hereafter be incorporated by or under the laws of the State of New York, to associate together for the purpose of guaranteeing the contracts of insurance, which either of them may lawfully make as hereinafter provided, and such association shall be known as the "New York Underwriters' Guild." (*Laws of 1867, chap. 847, § 1.*)

**264.** The office of the corporation created by this act shall be kept in the city of New York, and the business of the said association shall be managed by a board of directors, to consist of the presidents and secretaries of the several companies belonging to and composing said Guild. (*Ibid*, § 2.)

**265.** Whenever five or more of such fire companies shall have, by a vote of their board of directors, declared their intent to avail themselves of the privileges of this act, and to associate themselves thereunder; such intent and vote being certified to by the officers, president and secretary, and attested by the corporate seal of each company, and filed in the office of the Insurance Department, at Albany, the presidents and secretaries of such five or more companies shall organize under this act, and they shall constitute the board of directors of the New York Underwriters' Guild. They shall elect annually one of their number president, and they shall

appoint a secretary and such other officers as they may deem requisite. (*Ibid*, § 3.)

**266.** Those companies which join the said Guild shall contribute to a common guaranty fund, on entering the same, the sum of five thousand dollars each, and such further sums as may be voted by a majority of the directors of the Guild, which shall be not less than one, and not more than three per cent. on the capital stock of the respective companies belonging thereto in each and every year after its organization under this act. Companies desiring to be admitted thereafter shall signify and file their intent as aforesaid. The board of directors of said Guild shall, annually, from the date of its organization, assess upon the several companies belonging thereto, proportionate sums, to be paid into said guaranty fund, and any company not paying up its assessment within two months from the date of the assessment shall be liable to expulsion from said Guild. (*Ibid*, 4.)

**267.** The funds of this corporation shall be invested by the board of directors, in such loans and securities as are designated for investments in the act for the incorporation of fire insurance companies, passed April fifteenth, eighteen hundred and fifty-nine, and in any amendment thereof. (*Ibid*, § 5.)

**268.** Separate accounts shall be kept of the money paid in by each company, and there shall be an annual dividend made of the income and interest on investments—less proper and necessary expenses—which dividend, on the first day of January of each year, shall be divided among the companies *pro rata* of the amounts paid in and standing to the credit of each. (*Ibid*, § 6.)

**269.** There shall, on the first day of December in each year, be made a statement of the funds of this corporation, and how they are then invested, verified by the oaths of the president and secretary, and filed with the Superintendent of the Insurance Department, and the said Superintendent is hereby empowered to examine at any time into the state of said fund, and the securities thereof, and he shall embody such annual statement and examination, if any shall have been made, in his annual report to the legislature. (*Ibid*, § 7.)

**270.** The insured in each and every company belonging to this Guild, with which a contract for insurance has been effected while such company is a member thereof—provided the property insured is within the limits of the State of New York, and not otherwise—shall have recourse for indemnity for loss and damage, first, against the capital and effects of the company contracting, and with whom the amount of the loss shall be adjusted; second, against the contributed fund of that company, in the custody of this corporate Guild; and third, against the entire guaranty fund held by this corporate Guild; and fourth, if the entire guaranty fund shall be exhausted, and be inadequate to meet the claim or claims that shall lawfully be made against it, the deficiency shall be assessed upon and paid by the several insurance companies belonging to the Guild *pro rata* the amount of their capitals. But nothing in this act contained shall release or discharge the personal liability of any stockholder. And all the policies issued by each company in membership shall express the fact of their connection with the Guild, and their liability created by this act. (*Ibid*, § 8.)

**271.** The directors of this corporation may make all needful rules and regulations for the government and conduct of the Guild,

and may prescribe the terms for admission of other insurance companies, provided that such rules and regulations are not in contravention of the laws of this State. They shall also hold the power to expel any company from membership when, in their judgment, the general interest of the Guild demands it, but such expulsion shall require a vote of two-thirds of the whole board of directors, at one of the regular meetings of the board, or at a meeting specially called for that purpose, on due notice. On the retirement of any company by voluntary withdrawal, expulsion or otherwise, notice of such retirement shall be published in the State paper, and in a paper published in the city of New York, once in each week for six weeks successively, proof of which publication shall be made and filed in the office of the Insurance Department, at the city of Albany. (*Ibid*, § 9.)

**272.** Upon the expulsion or voluntary withdrawal of any company, the companies remaining in the Guild, their capitals, and their proportion of the reserve or guaranty fund, shall not be responsible for the liabilities of such retiring or expelled company on policies or contracts of insurance made after the termination of its membership; but, upon such withdrawal or termination of membership, the company may demand and receive from the Guild its proportion of the guaranty fund whenever all claims upon said fund (if any there shall then be) shall be liquidated and paid, and upon due proof that all policies which have been issued by such retiring company, and which might have a claim for indemnity against said fund, have been terminated. (*Ibid*, § 10.)

**273.** George W. Savage, Richard A. Reading, William D. Waddington, James H. Pinckney, and Robert D. Hart, or a majority of them shall be commissioners to organize the company created by this act; and whenever five or more companies shall have signified their intention of becoming members of the Guild, in the manner specified in the third section of this act, the powers of the said commissioners shall cease. (*Ibid*, § 11.)

**274.** The said corporation shall possess the general powers, and be subject to the restrictions and liabilities prescribed in the third title of the eighteenth chapter of the first part of the Revised Statutes. (*Ibid*, § 12.)

**275.** Nothing contained in this act shall be construed to affect the restrictions contained in any existing laws of this State respecting the limitation of the amount of risk which can be assumed by any company, or to impair or infringe upon the rights, privileges, and duties of the Superintendent of the Insurance Department, as they now are, or may hereafter be declared by law. (*Ibid*, § 13.)

**276.** There shall be an officer of and for the Metropolitan Police district, to be known as the "Metropolitan Fire Marshal." The Board of Metropolitan Police shall appoint a proper person to be the "Metropolitan Fire Marshal," and one assistant, who shall reside in Brooklyn, who shall take the constitutional oath of office, and hold such office during the pleasure of said Board, and until a successor shall be appointed and duly qualified, by taking the constitutional oath of office. The Board shall also have power to appoint not more than two clerks, whose salaries shall be fixed by said Board, to be known as the chief clerk and assistant clerk, respectively, to the Fire Marshal. Appointments to such office and clerkships shall be by such resolution of such Board; in the adoption of such resolution the votes of three-fourths of all the members, taken



by ayes and noes, to be entered in the minutes of the proceedings thereof shall be required. The business office of the "Metropolitan Fire Marshal" shall be in the central department of Metropolitan Police. (*Laws of 1868, chap. 563, § 1.*)

**277.** It shall be the duty of the "Metropolitan Fire Marshal" to examine into the cause, circumstances and origin of fires (occurring in those portions of the Metropolitan Police district in which regular patrolmen of Metropolitan Police are authorized and appointed), by which any building, vessels, vehicles, or any valuable personal property shall be accidentally or unlawfully burned, destroyed, lost or damaged, wholly or partially; and to especially inquire and examine whether the fire was the result of carelessness or the act of an incendiary. The "Metropolitan Fire Marshal" shall take the testimony on oath of all persons supposed to be cognizant of any facts, or to have means of knowledge in relation to the matters herein required to be examined and inquired into, and cause the same to be reduced to writing, verified and transmitted to the Board of Metropolitan Police, with his report in writing, embodying his opinion and conclusions in relation to the matter investigated. The "Metropolitan Fire Marshal" shall report in writing to the Metropolitan Fire Department, the Board of Metropolitan Police, the Unsafe Building Commission, to the District Attorney, to the New York Board of Fire Underwriters, to the owners of property, or other persons interested in the subject-matter of investigation, any facts and circumstances which he may have ascertained by such inquiries and investigations, which shall, in his opinion, require attention from or by either of said boards, officers or persons; and it shall be the duty of the "Metropolitan Fire Marshal," whenever he shall be of opinion that there is evidence sufficient to charge any person with the crime of arson, to cause such person to be arrested and charged with such offense, and furnish to the District Attorney all the evidences of guilt, with the names of witnesses, and all the information obtained by him, including a copy of all pertinent and material testimony taken in the case; and he shall specially report to the Board of Metropolitan Police, as often as such Board shall require, his proceedings, and the progress made in all prosecutions for arson, and the result of all cases which are finally disposed of. (*Ibid.*, § 2.)

**278.** The "Metropolitan Fire Marshal" shall have power to issue a notice, in the nature of a subpœna, in such form, and subscribed in such manner as the Board of Metropolitan Police shall prescribe, to compel the attendance of any person as a witness before him, to testify in relation to any matter which is, by the provisions of this act, a subject of inquiry and investigation by the said Marshal. The said Marshal shall be, and is hereby authorized to administer and verify oaths and affirmations to persons appearing as witnesses before him; and false swearing in any matter or proceeding aforesaid shall be deemed perjury, and shall be punishable as such. Upon the presentation of satisfactory proof of due service of any such notice, in the nature of a subpœna, upon any such witness, and of a failure by such witness to obey the same, it shall be the duty of the Board of Metropolitan Police to make an order that the said witness be arrested and brought before the said Marshal to testify what such witness may know in relation to the subject-matter of inquiry. Such order may be executed by any member of the Metropolitan Police force, by arresting and bringing such wit-

ness before the said Marshal, but such witness shall not be detained longer than is necessary to take such testimony. The "Metropolitan Fire Marshal" shall have authority, at all times of the day or night—in performance of the duties imposed by the provisions of this act—to enter upon and examine any building or premises, when any fire shall have occurred, and the buildings and premises adjoining and near to that in which the fire occurred. (*Ibid*, § 3.)

**279.** The compensation of the "Metropolitan Fire Marshal" shall be a salary of five thousand dollars per year, and that of the Assistant Marshal twenty-five hundred dollars. The compensation of the clerk shall be fixed by said Board, but shall not exceed twenty-five hundred dollars per annum for the chief clerk, and eighteen hundred dollars for the assistant. Such salaries shall be paid monthly by the Treasurer of the Board of the Metropolitan Police. The Board of Metropolitan Police shall estimate and cause to be raised, as a part of the general expenses of the police, and in the same manner as the Metropolitan Police Fund is estimated and raised, all sums necessary to carry out the provisions of this act. (*Ibid*, § 4.)

**280.** Whenever the words Marshal or said Marshal are used in this act, they shall be deemed and taken to mean and refer to the "Metropolitan Fire Marshal," unless otherwise expressly provided. (*Ibid*, § 5.)

**281.** It shall be the duty of the Board of Metropolitan Police to supervise and direct, whenever it shall be of opinion that the public interest will be subserved thereby, the investigation, examinations and proceedings of said Marshal, and make all needful and proper rules and regulations in relation to the duties of the office, and the manner of performing the same, and shall detail any members of the police force to aid and assist in the performance of such duties; and they shall, with their annual report to the Legislature, submit a summary of the transactions, proceedings and official action of said Marshal. (*Ibid*, § 6.)

**282.** All provisions of law creating, authorizing or recognizing Fire Marshals in any portion of said district, except as herein provided, are hereby repealed. (*Ibid*, § 7.)

## INVESTIGATION INTO THE ORIGIN OF FIRES.

**283.** Whenever it shall be made to appear by the affidavit of a credible witness that there is ground to believe that any building has been maliciously set on fire or attempted to be, any coroner, Sheriff or Deputy-Sheriff of the county in which such crime is supposed to have been committed, to whom such affidavit shall be delivered, and who shall be requested, in writing, by the president, secretary or agent of any insurance company, or by two or more reputable freeholders, to investigate the truth of such belief, shall do so without delay. (*Laws of 1857, chap. 504, § 1.*)

**284.** For this purpose he shall possess all the powers conferred upon coroners for the purpose of holding inquests by the first four sections of article first of title seventh of chapter second of part fourth of the Revised Statutes. (*Ibid*, § 2.)

**285.** The jury, after inspecting the place where the fire was or was attempted, and after hearing the testimony, shall deliver to the officer holding such inquest their inquisition in writing, to be signed

by them, in which they shall find and certify how and in what manner such fire happened or was attempted, and all the circumstances attending the same and who were guilty thereof, either as principal or accessory, and in what manner. But if such jury shall be unable to ascertain the origin and circumstances of such fire, they shall find and certify accordingly. (*Ibid*, § 3.)

**286.** If the jury find that any building has been designedly set on fire or has been attempted so to be, the officer holding such inquest shall bind over the witnesses to appear and testify at the next criminal court, at which an indictment for such offense can be found that shall be held in the county. And in such case, if the party charged with any such offense be not in custody, the officer holding such inquest shall have power to issue process for his arrest in the same manner as justices of the peace. (*Ibid*, § 4.)

**287.** The officer issuing such process shall have the same power to examine the party arrested as is possessed by a justice of the peace, and shall in all respects proceed in like manner. (*Ibid*, § 5.)

**288.** The testimony of all witnesses examined before the jury under this law, shall be reduced to writing by the officer holding the inquest, and shall be returned by him together with the inquisition of the jury, and all recognizances and examinations taken by such officer, to the next criminal court of record that shall be held in such county. (*Ibid*, § 6.)

**289.** The compensation of the officers holding such inquest, and their actual and necessary expenses under this act, shall be fixed, audited and paid in the same manner as the compensation and actual and necessary expenses of coroners are now provided for by law. (*Ibid*, § 7.)

**290.** This act shall not extend to the cities of New York, Brooklyn and Buffalo. (*Ibid*, § 8.)

## ARSON AND INCENDIARISM.

**291.** Arson in the first degree, the punishment of which is described in this title, consists in willfully setting fire to, or burning in the night-time, a dwelling-house in which there shall be, at the time, some human being; and every house, prison, jail, or other edifice, which shall have been usually occupied by persons lodging therein at night, shall be deemed a dwelling-house by any person so lodging therein. (*Revised Statutes*, 1863, vol. 2, p. 678, § 9.)

**292.** But no warehouse, barn, shed, or other out-house, shall be deemed a dwelling-house, or part of a dwelling-house, within the meaning of the last section, unless the same be joined to, immediately connected with, and part of a dwelling-house. (*Ibid*, § 10.)

**293.** Every person who shall be convicted of murder in the second degree, or of arson in the first degree, as herein defined, shall be punished by imprisonment in a State prison during the period of his natural life. (*Ibid*, p. 679, § 28, as amended by laws of 1873, chap. 644, § 2.)

**294.** Every person who shall willfully set fire to, or burn any inhabited dwelling-house, in the day-time, which, if committed in the night time would be arson in the first degree, shall, upon conviction, be adjudged guilty of arson in the second degree. (*Ibid*, p. 686, § 1.)

**295.** Every person who shall willfully set fire to, or burn in the night-time, any shop, warehouse, or other building, not being the subject of arson in the first degree, but adjoining to, or within the curtilage of any inhabited dwelling-house, so that such house shall be endangered by such firing, shall, upon conviction, be adjudged guilty of arson in the second degree. (*Ibid*, p. 686, § 2.)

**296.** Every person who shall willfully set fire to, or burn in the day-time, any shop, warehouse, or other building, which, if committed in the night time would be arson in the second degree, shall, upon conviction, be adjudged guilty of arson in the third degree. (*Ibid*, § 3.)

**297.** Every person who shall willfully set fire to, or burn in the night-time, the house of another, not the subject of arson in the first or second degree; any house of public worship, or any school-house; any public building belonging to the people of this State, or to any county, city, town, or village, or any building in which shall be deposited the papers of any public officer; or any barn or grist-mill; or any building erected for the manufactory of cotton or wool-len goods, or both, or paper, iron, or any other fabric; or any fulling-mill, or any ship or vessel, shall, upon conviction, be adjudged guilty of arson in the third degree. (*Ibid*, § 4.)

**298.** Every person who shall willfully burn any building, ship, or vessel, or any goods, wares, merchandise, or other chattel, which shall be at the time insured against loss or damage by fire, with intent to prejudice such insurer, whether the same be the property of such person or of any other, shall, upon conviction, be adjudged guilty of arson in the third degree. (*Ibid*, p. 687, § 5.)

**299.** Every person who shall in the day-time willfully set fire to or burn any dwelling-house or building, ship or vessel, which, if committed in the night-time would be arson in the third degree, shall, on conviction, be adjudged guilty of arson in the fourth degree. (*Ibid*, § 6.)

**300.** Every person who shall, in the day or night time, willfully set fire to or burn any saw-mill, any carding-machine or building containing the same, or any building of the character in this title mentioned in the process of erection or construction, or any stack of grain of any kind, or any stack of hay, or any wood, boards, timber, or other lumber, piled or yarded for sale, not being the property of such person, any toll-bridge or any other public bridge, shall, upon conviction, be adjudged guilty of arson in the fourth degree. (*Ibid*, § 7, as amended by laws of 1869, chap. 873, § 1.)

**301.** Every person who shall be convicted of any degree of arson herein specified, shall be punished by imprisonment in a State prison, as follows:

1. Of arson in the second degree, for a term not more than ten years, nor less than seven years.

2. Of arson in the third degree, for any term not more than seven years, and not less than four years.

3. Of arson in the fourth degree, for any term not more than four years, and not less than one year; or by imprisonment in a county jail not exceeding a year. (*Ibid*.)

## FRAUDS ON INSURANCE COMPANIES.

**302.** If any person or persons shall willfully or corruptly cast



away, burn, sink, scuttle, or otherwise destroy any vessel, canal boat, or other craft, upon any of the lakes or other navigable inland waters of this State, or upon any canal of this State, with intent to injure or defraud any owner of such vessel, canal boat, or other craft, or with intent to injure or defraud the owner or owners of any property shipped or laden on board the same for transportation, or with intent to injure or defraud any insurer of such vessel, canal boat, or other craft, or of any property so shipped or laden thereon, or of any part thereof, the person or persons so offending shall, upon conviction thereof, be deemed and adjudged guilty of a felony, and shall be punished by imprisonment in a State prison for a term not less than two years. (*Laws of 1870, chap. 299, § 1.*)

**303.** Any owner or owners of any vessel, canal boat, or other craft, or any other person who shall, upon any of the lakes or other inland navigable waters of this State, or upon any canal of this State, willfully or corruptly cast away, burn, sink, scuttle, or otherwise destroy or injure any such vessel, canal boat, or other craft, or in any manner direct, procure, or cause the same to be done, with intent to injure or defraud any owner or owners of any property shipped or laden on board the same, or any insurer of such property, or of any part thereof, shall, upon conviction thereof, be deemed and adjudged guilty of a felony, and shall be punished by imprisonment in a State prison for a term not less than two years. (*Ibid, § 2.*)

**304.** Any person or persons who shall willfully or corruptly attempt to cast away, burn, sink, scuttle, or otherwise destroy any vessel, canal boat, or other craft, upon any of the lakes or other navigable inland waters of this State, or upon any canal of this State, with intent or design to injure or defraud the owner or owners of such vessel, canal boat, or other craft, or the owner or owners of any property shipped or laden on board the same, or any insurer of any such vessel, canal boat, or other craft, or property, or any part thereof, shall, upon conviction thereof, be adjudged guilty of a felony, and shall be punished by imprisonment in a State prison for a term not less than one year. (*Ibid, § 3.*)

#### EMBEZZLEMENT.

**305.** Any person who shall be appointed, or who shall act as agent for any insurance company within this State, or who shall as such agent solicit applications, issue policies or renewals, and collect premiums, either for original insurances or renewals, or who shall receive or collect moneys from any source or any account whatsoever, as such agent, for any insurance company doing business in this State, whether such company be organized under the laws of this State or any other State of the Union, such person shall be held responsible, in a trust or fiduciary capacity, to such company for any moneys received by him for such company. (*Laws of 1873, chap. 688, § 1.*)

**306.** Any such agent or person who shall embezzle or convert to his own use, or shall take or secrete or otherwise dispose of, with intent to embezzle or use, or who shall fraudulently withhold or appropriate, invest, loan or otherwise fraudulently apply or make use of, without the consent of such company, or contrary to its instructions, any money belonging to such company which shall have come

into his possession, or shall be under his care, by reason of such agency, he shall be deemed by so doing to have committed the crime of larceny, and upon conviction shall be punished for such crime. (*Ibid*, § 2.)

#### GENERAL PROVISIONS RELATING TO CORPORATIONS.

**307.** Prevention of Insolvency of Moneyed Corporations see Revised Statutes, vol. 1, pp. 547-552, Edmonds' edition; Election of Directors of Moneyed Corporations, see Revised Statutes, vol. 1, pp. 552-556, Edmonds' edition; General Powers, Privileges, and Liabilities of Corporations, see Revised Statutes, vol. 1, pp. 556-558, Edmonds' edition; Special Provisions relating to certain Corporations, see Revised Statutes, vol. 1, pp. 558-562, Edmonds' edition; Proceedings against Corporations in Equity see Revised Statutes, vol. 2, pp. 482-487, Edmonds' edition; Voluntary Dissolution of Corporations see Revised Statutes, vol. 2, pp. 488-494, Edmonds' edition; Taxation of Incorporated Companies see Revised Statutes, vol. 1, pp. 374-378, Edmonds' edition. For other General Provisions, see laws of 1863, chap. 20; laws of 1867, chap. 937; laws of 1870, chapters 135 and 151; laws of 1873, chap. 151; and laws of 1875, chapters 119, 428, and 508.

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# INSURANCE STATUTES OF NORTH CAROLINA.

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## CONSTITUTIONAL PROVISIONS CONCERNING CORPORATIONS.

1. Corporations may be formed under general laws, but shall not be created by special act, except for municipal purposes, and in cases where, in the judgment of the legislature, the object of the corporations cannot be attained under general laws. All general laws and special acts passed, pursuant to this section, may be altered from time to time or repealed. (*Article 8, § 1.*)

2. Dues from corporations shall be secured by such individual liabilities of the corporations and other means, as may be prescribed by law. (*Ibid, § 2.*)

3. The term corporation, as used in this article, shall be construed to include all associations and joint stock companies, having any of the powers and privileges of corporations, not possessed by individuals or partnerships. And all corporations shall have the right to sue, and shall be subject to be sued in all courts, in like cases as natural persons. (*Ibid, § 3.*)

## INSURANCE COMPANIES AND AGENCIES.

4. Every corporation doing the business of maritime, fire or life insurance, and any and all other corporations, companies and associations whatever, engaged in the business of insurance of any kind, or which grants annuities, or holds property in trust, or receives money on deposit, shall make to the Secretary of State, in such form as shall be prescribed by him once in each year, a report of its financial and business condition, which shall be sworn to by the chief officer of the company, or by some other officer appointed for the purpose, before the said Secretary of State, which report shall set forth the liabilities and assets of said corporation, company or association, how and in what manner their assets are invested, and shall give the "reserve," if any, of said company, corporation or association, as calculated by an expert actuary, and the number of judgments, if any, not fully paid and satisfied against the said company, corporation or association in this State, in what Court and at what time they were obtained, the amounts due on the same, and to whom due, and whether or not an appeal has been craved by the said company, corporation or association, and granted by the Court from the said judgment or judgments. (*Laws of 1874-75, p. 275, § 1.*)

5. And if at any time during the said year the said Secretary of State shall have cause to believe that any of the said companies, corporations and associations that have reported to him as aforesaid, and have passed an approved examination as hereinafter provided, could not at that time pass the said examination, the said Secretary of State shall order the said company, corporation or association to make to him a new report. (*Ibid, p. 276, § 2.*)



6. It shall be the duty of the Secretary of State to receive and thoroughly examine all such reports as may be made in pursuance of the preceding section, and fully investigate the business affairs and finances of such company, corporation or association making the same, and if upon such examination and investigation such company, corporation or association shall appear to be doing business upon sound principles, and within the provisions of its charter, and in compliance with the laws of the State of North Carolina, then the Secretary of State shall approve the report made as aforesaid; *Provided*, That the said Secretary of State shall not approve the report as aforesaid of any fire and marine companies doing business in the State, unless they show by the said report a reserve of at least fifty per cent. of premiums; of any mutual life companies unless they show by the said report a reinsurance reserve calculated on a basis of  $4\frac{1}{2}$  per cent.; of any stock companies unless they show by their report a reinsurance reserve calculated on a basis of at least 5 per cent.; and the said Secretary of State shall not approve the report of any of the said companies, corporations or associations, that do not possess at least one hundred thousand dollars in available assets, or that have a judgment against them in any of the Courts of this State, from which no appeal has been granted, for which examination and investigation he shall be paid by such company, corporation or association, the sum of twenty-five dollars; *Provided*, That the amount received as fees as aforesaid in excess of one thousand five hundred dollars, shall be paid into the treasury and accounted for as other public money, and that the said Secretary of State, and those appointed by him to assist in carrying out the provisions of this act shall not be connected, directly or indirectly, with the said associations, corporations or companies. When the report as hereinbefore provided for shall have been approved as aforesaid, the Secretary of State shall cause the same to be published in one of the two newspapers in the city of Raleigh, which have the larger circulation, at the expense of the company, corporation or association, making the same, and it shall be the duty of the Secretary of State at his own expense, to publish in the said newspapers in the city of Raleigh, the names of all the companies, corporations or associations that refuse to send in their reports as required by this act, and also the names of such corporations, companies or associations as have failed in business, and the names of all corporations, associations and companies that have passed an approved examination, and the names of all the corporations, associations and companies that failed to pass an approved examination, and the Secretary of State is hereby required to give to all such companies, corporations and associations, designated in the next preceding section of this act, as shall comply with the provisions of this act, a certificate that they have complied with the provisions thereof, and such company, corporation or association is hereby forbidden to do business without such certificate, and any agent or manager of such company, corporation or association who shall attempt to transact the business of the same, without having first obtained a certificate as aforesaid, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than five hundred dollars nor more than one thousand dollars, and imprisoned at the discretion of the Court. The various prosecuting officers of the State are hereby empowered to enforce the provisions of this section upon information furnished by the Secretary of State. It shall be the duty of any officer having

in his possession or control any books, accounts or papers of any company, corporation or association of which he is an officer, to exhibit the same to the Secretary of State on demand, and to give him all necessary information to enable him to make a full and correct report. And any such officers failing or refusing so to do or who shall knowingly or willfully make any false statement respecting the affairs of the company, corporation or association of which he is an officer, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined or imprisoned, or both, at the discretion of the Court. (*Ibid*, § 3.)

7. It shall be the duty of the Secretary of State to keep on file in his office for the inspection of the public a copy of all reports received by him as aforesaid, and the Secretary of State shall be required to forward to the Clerks of the Superior Courts of each and every county a statement certified under the seal of his office, of each company, corporation or association that shall have passed an approved examination, and he shall also furnish to the said clerks a certified list of all such companies, corporations or associations as may have failed in business, and the names of all corporations, associations and companies that have failed to pass an approved examination, and the names of all corporations, associations and companies that have failed to send in their reports as required by this act. It shall be the duty of the Clerks aforesaid upon their receipt of such certified statement, to cause to be copied the same in a book kept for the purpose, furnished by the Secretary of State, which book shall be open to the inspection of the public, and for which service each Clerk shall be entitled to a fee of two dollars, to be paid by the said Secretary of State, and any Clerk failing to comply with the provisions of this act, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined one hundred dollars; *Provided*, That this act shall not apply to Building and Loan Associations. (*Ibid*, p. 278, § 4.)

8. Every insurance or assurance company not incorporated in this State, doing business therein shall pay an annual tax of two per centum to the Secretary of State upon the gross receipts derived from the premiums charged for insurance obtained therein, unless the company shall exhibit to the Governor, Auditor, and Secretary of State, a sworn statement of investments in real property situate in this State, or loans secured by mortgage to citizens of this State of an amount equal to one half of such gross receipts, when the tax shall be one per centum, said tax to be paid semi-annually within thirty days after the first days of July and January of each year. Each general agent shall be required, on the above named days, to make a statement to the Secretary of State under oath, that the amount by him returned is a full and correct statement of such six months. On failure to comply with the provisions of this section, every such company shall pay as a tax two thousand dollars, and the principal agent shall be liable therefor. Every such company shall be required to appoint a general agent, who shall obtain a license from the Secretary of State before transacting any business therein, and before such license is granted, the applicant shall show to the Secretary of State his appointment as general agent, under seal of the company, furnishing satisfactory evidence of the solvency of the company, and thereupon the license shall be granted by the payment of one hundred dollars, and such license shall be renewed annually by the payment of said sum.

And it shall be the duty of said general agent to furnish each of his sub-agents with a commission authorizing him to do business. And any one found soliciting insurance without such commission shall be deemed guilty of a misdemeanor, and be fined not less than one thousand dollars, and imprisoned not less than ninety days. The agent effecting insurance shall, on the first days of July and January, make return to the Register of Deeds of the county in which the insurance is effected of all the business done by him during the preceding six months in said county, and shall pay to the Sheriff the county tax assessed on such business. The general agent shall also, within thirty days after the first days of July and January, make return to the Register of Deeds of each county of the amount of gross receipts for the premiums received from such county for such six months. It shall further be required of the general agent, or his local agent, to pay the Sheriff of each county the county tax assessed upon the gross receipts of premiums collected in such county, at the time and in the manner as required by the State; and no municipal corporation shall be allowed to add any additional tax; and on failure to make returns or to pay as aforesaid, said agent shall pay twenty-five dollars for each policy effected or negotiated by him in such county; *Provided*, That no county or corporation shall be allowed to tax insurance agents for license. The Secretary of State shall furnish to the Auditor of the State, on the first of each month, a statement in detail, of the taxes received by him, under this section during the previous month, and pay to the Treasurer of the State the amount of such taxes. (*Laws of 1874-75, p. 248, § 24, as amended by p. 256, § 1.*)

**9.** Whenever the existing or future laws of any other State of the United States shall require of insurance companies incorporated by this State, or of the agents thereof, any deposits of securities in such State for the protection of policy-holders or otherwise, or any payment for taxes, penalties, certificates of authority, license fees or otherwise, greater than the amount required for such purposes from similar companies of other States by the then existing laws of this State, then and in every such case, all companies of such States, establishing or having heretofore established, an agency or agencies in this State, shall be and are hereby, required to make the same deposits for a like purpose with the Treasurer of this State, and to pay to said Treasurer for taxes, fines, penalties, certificates of authority, license fees and otherwise, an amount equal to the amount of such charges and payments imposed by the laws of such State upon companies of this State and agents thereof. (*Laws of 1873-74, p. 31, § 1, as amended by p. 262, § 1.*)

**10.** All persons violating the provisions of this act shall be liable to indictment, and, on conviction shall be fined not less than five hundred dollars nor more than one thousand dollars, at the discretion of the Court. (*Ibid, § 2.*)

## LIFE INSURANCE FOR THE BENEFIT OF MARRIED WOMEN AND CHILDREN.

**11.** Any *feme covert*, in her own name, or in the name of a trustee with his assent, may cause to be insured for any definite time the life of her husband, for her sole and separate use; and she may dispose of the interest in the same by will, notwithstanding

her coverture; *Provided, however*, That when the annual premium for insurance shall exceed three hundred dollars, and shall not be paid altogether out of her own separate estate, or by some friend for her, the sum due on the insurance on the death of her husband, she surviving, shall, in case of the insolvency of the estate, be applied to the discharge of his obligations, contracts, and liabilities. (*Battle's Revisal*, 1873, p. 593, § 34.)

## ARSON AND INCENDIARISM.

**12.** Whosoever shall unlawfully and maliciously set fire to any church, chapel, or meeting-house, or shall unlawfully, or maliciously set fire to any house, stable, coach-house, out-house, warehouse, office, shop, mill, barn or granary, or to any building or erection used in carrying on any trade or manufacture, or any branch thereof, whether the same or any of them respectively shall then be in the possession of the offender, or in the possession of any other person, with intent thereby to injure or defraud any person or persons, body politic or corporation, shall be guilty of felony, and being convicted thereof shall be imprisoned in the State's prison for not less than five nor more than forty years. (*Laws of 1875*, p. 310, § 1.)

**13.** Every person convicted of any willful burning of any gin-house, or tobacco-house, or any part thereof, or in the night-time, any stable containing a horse or horses, or a mule or mules, shall be imprisoned in the State's prison not less than five, nor more than ten years. (*Battle's Revisal*, 1873, p. 294, § 6.)

**14.** If any person shall willfully or maliciously burn the State House, or any of the public offices of the State, or any court-house, jail, arsenal, clerk's office, register's office, or any house belonging to any incorporated town in the State, or to any incorporated company whatever, in which are kept the archives, documents, or public papers of such town or corporation, he shall suffer imprisonment in the State's prison for not less than five, nor more than sixty years. (*Ibid*, p. 295, §§ 11, 13.)

**15.** If any person, with intent to destroy the same, shall willfully and maliciously set fire to and burn any public bridge or private toll-bridge, or the bridge of any incorporated company, or any fire-engine house, or any house belonging to any incorporated town, used for public purposes other than the keeping of archives, documents, and public papers, or any house belonging to an incorporated company and used in the business of such company; or if any person shall willfully and maliciously attempt to burn any of the said houses or bridges, or any of the houses or buildings mentioned in the previous sections of this chapter, the person so offending shall be deemed guilty of a misdemeanor, and being convicted thereof, shall suffer imprisonment in the State's prison (or county jail), for not less than four months, nor more than ten years. (*Ibid*, p. 298, §§ 28, 29.)

## EMBEZZLEMENT.

**16.** If any officer, agent, clerk or servant, of any corporation, or any clerk, agent or servant of any person or copartnership (except apprentices and other persons under the age of sixteen years), shall embezzle or fraudulently convert to his own use, or shall take,



make way with or secrete, with intent to embezzle or fraudulently convert to his own use any money, goods or other chattels, bank note, check or order for the payment of money issued by or drawn on any bank or other corporation, or any treasury warrant, treasury note, bond or obligation for the payment of money issued by the United States or by any State, or any other valuable security whatsoever belonging to any other person or corporation which shall have come into his possession or under his care by virtue of such office or employment, he shall be deemed guilty of felony, and upon conviction thereof, shall be punished as in case of larceny. (*Ibid*, p. 319, § 136.)

**17.** For General Provisions relating to Corporations see Battle's Revisal, 1873, pp. 260-270.

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# INSURANCE STATUTES OF OHIO.

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## CONSTITUTIONAL PROVISIONS CONCERNING CORPORATIONS.

1. The general assembly shall pass no special act conferring corporate powers. (*Art. 13, § 1.*)

2. Corporations may be formed under general laws; but all such laws may, from time to time, be altered or repealed. (*Ibid, § 2.*)

3. Dues from from corporations shall be secured by such individual liability of the stockholders, and other means as may be prescribed by law; but in all cases each stockholder shall be liable over and above the stock by him or her owned, and any amount unpaid thereon to a further sum at least equal in amount to such stock. (*Ibid, § 3.*)

4. The property of corporations now existing or hereafter created shall forever be subject to taxation, the same as the property of individuals. (*Ibid, § 4.*)

## INSURANCE DEPARTMENT.

5. There is hereby established a separate and distinct department, to be known as the Insurance Department, which shall be charged with the execution of all laws now in force, or which shall hereafter be passed, in relation to insurance and insurance companies. (*Laws of 1872, p. 32, § 1.*)

6. There shall be appointed by the Governor, by and with the advice and consent of the Senate, if in session, within thirty days after the passage of this act, a chief officer of said department, who shall be styled the Superintendent of Insurance, and shall hold his office for the term of three years, and until his successor is duly appointed and qualified, and shall receive for his services the sum of three thousand dollars per annum; *Provided, however,* That the person first appointed Superintendent under this act shall enter upon the duties of his office on the first Monday of June, A.D. 1872. The person so appointed shall be an elector of this State, and shall, during his term of office, have no official connection with any insurance company, nor own or be interested in the business, bonds, stock, or other property of, or be employed by, any such company, and shall be ineligible to or hold any other office during the term of his said office. In case of a vacancy in said office by death, resignation, removal, suspension, or otherwise, the Governor shall fill the vacancy and report the name of such appointee to the Senate, if in session, and if not, within ten days after the commencement of the next regular or adjourned session thereafter; and such appointee, by and with the advice and consent of the Senate, shall hold his office for the unexpired term, and until his successor is duly appointed and qualified. If at any time the Governor shall become satisfied that the Superintendent is inefficient, incompetent, or derelict in the dis-

charge of his duties, he is hereby authorized and required, by and with the advice and consent of the Senate, if it be in session, to remove said Superintendent from office, and if the Senate be not in session, to suspend him from the discharge of his duties, temporarily filling the vacancy, as hereinbefore provided, and reporting the fact to the Senate at its next meeting thereafter, for its action thereon. (*Ibid*, § 2.)

7. Before entering upon the discharge of his duties, the said Superintendent shall take an oath or affirmation to support the constitution of the United States, and the constitution of this State, and to faithfully and honestly discharge the duties of his said office, and that he is not an officer, employe or stockholder in any insurance company, or otherwise interested therein, directly or indirectly, except as a policy-holder; and shall also give bond to the State of Ohio, in the sum of twenty thousand dollars, with not less than two sureties, to be approved by the Governor, and filed and recorded with the Secretary of State, conditioned for the faithful discharge of the duties of his office. The said Superintendent shall possess all the powers, perform all the duties, and be subject to all the obligations and requirements now invested in or appertaining to the Auditor of State by the laws relating to insurance and insurance companies, and from the date of entering his office shall take the place of said Auditor, under all the provisions of said laws, and have the sole and exclusive charge and control over said insurance department, under the laws relating thereto. (*Ibid*, p. 33, § 3.)

8. Said Superintendent may appoint a chief clerk, who shall in no way be interested in any insurance company, except as a policy-holder, whose appointment shall be evidenced by a certificate thereof, under the official seal of the Superintendent, and who shall continue in office during the pleasure of the Superintendent; and before entering upon his duties shall take the oath of office herein above prescribed, and give bond, with two or more sureties, in the sum of ten thousand dollars, to the acceptance of the Superintendent, conditioned for the faithful performance of his official duties; and in case of the absence or inability of the Superintendent, the said chief clerk shall act as his deputy, and shall possess the powers and perform the duties of the Superintendent. The Superintendent shall also have power to employ such other clerks, from time to time, as may be necessary to carry on the business of his office with promptness and accuracy; and, whenever necessary for the examination into the business and affairs of any insurance company, may employ one or more skilled and competent persons to make such examination and report thereon. The Superintendent shall be furnished with suitable rooms in the State-house, which shall be furnished from time to time with the necessary office furniture, stationery, and other conveniences for the transaction of the business of his office; and all the salaries, payments, and expenditures for said insurance department, authorized by this act, shall be paid out of the treasury, upon the certificate of the Superintendent, in the same manner as other like expenses; *Provided*, The amount so paid out shall at no time exceed that collected from the insurance companies, as provided for in this act. (*Ibid*, § 4.)

9. The seal of the Superintendent of Insurance shall be one inch and three-fourths in diameter, surrounded by the words "Superintendent of Insurance of Ohio," with the device prescribed for the seal of the Auditor of State and other officers, by the act

passed May 9, 1868, to be furnished by the Secretary of State; and every certificate, assignment, or conveyance executed by said Superintendent in pursuance of any authority conferred by law, and sealed with his seal of office, shall be received as evidence, and may be recorded in the proper recording office in the same manner and with like effect as a deed regularly acknowledged before an officer authorized by law to take the acknowledgment of deeds; and all copies of papers in the office of said Superintendent, certified by him and authenticated by the said seal, shall in all cases be evidence equally and in like manner as the original. (*Ibid*, p. 34, § 5.)

**10.** All books and documents, and all other papers whatever, in the office of the Auditor of State, relating to insurance, shall, on demand, be delivered and transferred to the Superintendent of Insurance, who shall give to the said Auditor of State a receipt for the same, which shall be to the Auditor a full release from all responsibility in connection with such documents, etc.; and thereafter such books, papers, and documents shall be and remain in the charge and keeping of the said Superintendent in his said office. (*Ibid*, § 6.)

**11.** It shall be the duty of the Superintendent of Insurance, whenever he shall have good reason to suspect the correctness of any annual statement, or that the affairs of any company are in an unsound condition, to make, or cause to be made, an examination into the affairs of any such insurance company, for the purposes named in this act, incorporated in this State, or doing business by its agencies in this State; and it shall be the duty of the officers or agents of any insurance company doing business in this State to cause their books to be opened for the inspection of said Superintendent, or the person or persons so appointed, and otherwise to facilitate such examination, so far as it may be in their power so to do. (*Ibid*, § 7.)

**12.** For that purpose the Superintendent, or the person or persons so appointed by him, shall have power to examine, under oath—which he or they are hereby empowered to administer—the officers and agents of any company relative to the business of said company; and whenever the Superintendent shall deem it for the interest of the public, he shall publish the result of such investigation in some newspaper printed in Columbus, and of general circulation in the State, and in a newspaper printed in the county where the principal office of the company is located. (*Ibid*, p. 35, § 8.)

**13.** Whenever it shall appear to the said Superintendent, from such examination, that the assets of any life insurance company, organized under the laws of this State, are insufficient to reinsure its outstanding risks, as provided by this act, or that the assets of any joint stock insurance company other than life, organized under the laws of this State, after deducting therefrom all actual liabilities, and a reinsurance fund equal to fifty per cent. of the whole amount of premiums on all unexpired risks and policies, are reduced twenty per cent. or more below the capital stock required by law, he shall require the officers thereof to direct the stockholders to pay in the amount of such deficiency, within such period as he shall designate in such requisition. After the Superintendent shall issue his requisition, calling for a sum to be paid by the stockholders of any company amounting to or exceeding forty per cent. of the capital, it shall be unlawful for said company to issue any new policies or transact any new business until the Superintendent of Insurance

shall issue to such company a license, authorizing it to resume business, or until the court shall have rendered its decision on the case, as hereinafter provided. But in case said requisition shall call for a less amount than forty per cent. of said capital, and the officers of the company shall, in accordance with said requisition, direct the stockholders to pay the amount required for making up the capital, and so signify to the Superintendent, then it shall be lawful for said company to continue business, as before the issuing of said requisition, for the term of thirty days from the date thereof. At the expiration of said thirty days, any portion of the requisition of the Superintendent remaining unpaid, it shall be unlawful for said company to issue any new policies or transact any new business until authorized by the Superintendent as aforesaid. (*Ibid*, § 9, as amended by laws of 1873, p. 165.)

**14.** In case of default on the part of said company to comply with such requisition, the Superintendent shall communicate the fact to the Attorney-General, who shall apply to the Court of Common Pleas of the county in which the principal office of said company is located, for an order requiring such company to show cause why the business of such company should not be closed, and shall give to said company such notice of the pending of such application as said court shall direct, and the court shall thereupon proceed to hear the allegations and proof of the respective parties; or, the court shall have power to refer the application of the Attorney-General to a referee, to inquire into and report upon the facts stated therein. In case it shall appear to the satisfaction of said court that the assets of said company are not sufficient as aforesaid, or that the interests of the public so require, the said court shall decree a dissolution of said company and a distribution of its effects. Any transfer of the stock of any company made during the pendency of any such investigation shall not release the party making the transfer from his liability for losses which have accrued previous to the transfer. (*Ibid*, § 10, as amended by laws of 1873, p. 166.)

**15.** If, upon examination, it shall appear to the Superintendent that the assets of any company organized on the plan of mutual insurance, after deducting therefrom all actual liabilities and reinsurance fund equal to fifty per cent. of the advanced cash premiums received on all unexpired risks and policies, are insufficient to justify the continuance of such company in business, it shall be his duty to proceed, in relation to such company, in the same manner as is herein required in regard to joint-stock companies; and the trustees or directors of such company are hereby made personally liable for any losses which may be sustained upon risks taken after the Superintendent of Insurance shall have issued his requisition for filling up the deficiency in the assets, and before such deficiency shall have been made up; *Provided*, That nothing herein shall be so construed as to require any mutual fire insurance company to keep on hand any cash reinsurance reserve or funds invested in securities, other than their premium notes, when said premium notes amount in gross to three per centum of the amount at risk by said company. (*Ibid*, § 11, as amended by laws of 1873, p. 166.)

**16.** Whenever it shall appear to the Superintendent of Insurance, from the report of the person appointed by him, or other satisfactory evidence, that the affairs of any company, partnership, or association, not organized under the laws of this State, are in an unsound condition, he shall revoke the authority granted to such



company to do business in this State, and cause a notice thereof to be published in at least one newspaper published in the city of Columbus, and in the county where the general agency is located within this State; and after the publication of such notice, it shall not be lawful for the agents of such company to procure any new applications for insurance, or to issue any new policies. The expenses of any examination made under this act shall be paid by the company examined. (*Ibid*, p. 36, § 12.)

17. The Superintendent shall keep and preserve, in a permanent form, a full record of his proceedings, including a concise statement of the condition of each company reported, visited or examined by him. The said Superintendent shall, annually, at the earliest practicable date after the returns are received from the several companies, make a report to the legislature of the general conduct and condition of the insurance companies doing business in this State, with such suggestions as he deems expedient, including also the information contained in the statements required of the said companies, and the result of the official valuations of life policies, to be arranged in tabular form, and prepare the same for printing in two separate reports, one pertaining to life insurance companies and the other to all insurance companies other than life; three hundred copies of each of said reports shall be printed for the use of the General Assembly; two thousand five hundred copies of each for the use of the Superintendent, of which five hundred volumes containing both reports shall be bound in cloth. He shall also report the names and compensation of the clerks employed by him, the whole amount of income, the source whence derived, and the expenses in detail during the year ending upon the thirty-first day of the preceding December. (*Ibid*, § 13.)

18. It shall be the duty of the Superintendent, annually, to make or cause to be made net valuations of all outstanding policies, additions thereto, unpaid dividends, and all other obligations of every life insurance company transacting business in this State; and for the purpose of such valuations, and for making special examinations of the condition of life insurance companies, as provided in the laws of this State relating to life insurance companies, and for valuing all policies of whatever description, and for any purpose whatever, the rate of interest shall be four and one-half per cent. per annum, and the rate of mortality shall be established by the tables known as the American Experience Tables; *Provided*, That whenever the laws of any other State of the United States shall authorize a valuation of life insurance policies by some designated State officer, according to the standard herein provided, or according to any other standard which shall make the value of the policy not less than that of the standard herein provided, the valuation made according to the said standard, by such officer, of the policies and other obligations of any life insurance company not organized under the laws of this State, and certified by said officer, may be received as true and correct, and no further valuation of the same shall be required of such company by the Superintendent of Insurance. (*Ibid*, § 14, as amended by laws of 1873, p. 166.)

19. The Superintendent shall annually, in September, furnish to the insurance companies doing business in this State, two or more printed copies of the forms of statements required by this act to be made by them; and he may make such changes, from time to time, in the form of the same, and such additions thereto,

as shall seem to him best adapted to elicit from said companies a true exhibit of their condition. (*Ibid*, p. 37, § 15.)

**20.** All securities deposited with the Superintendent of Insurance, pursuant to the provisions of any law of this State, shall be deposited by said Superintendent of Insurance with the Treasurer of State, who, with his sureties, shall be responsible for the safe keeping thereof; and said Treasurer shall only deliver such securities, or coupons attached thereto, upon the written order of the Superintendent of Insurance. (*Ibid*, § 16, as amended by laws of 1873, p. 167.)

**21.** There shall be paid by every insurance company doing business in this State, to the Superintendent of Insurance, the following fees, to wit: For the filing and examination of the first application of any company, and issuing the license thereupon, the sum of twenty-five dollars; for filing the annual statement required, twenty dollars; for each certificate of authority, or license, and certified copy thereof, two dollars; for every copy of a paper filed in this office, the sum of twenty cents per folio; and for affixing the seal of office, and certifying any paper, one dollar; *Provided*, That any company may pay to said Superintendent the sum of two hundred and fifty dollars for licenses to its agents for the year, and by so doing shall be entitled, without further charge, to licenses for as many agents as it may choose to appoint. There shall be paid, also, by every life insurance company doing business in this State, annually, by way of compensation for the valuation of its policies, in case no certified valuation of the same has been furnished to the Superintendent of Insurance, as provided in section fourteen of this act, one cent on every thousand dollars insured by it on lives; all of which fees shall be paid by the Superintendent into the State treasury. When, by the laws of any other State or nation, any taxes, fines, penalties, license fees, deposits of money or of securities, or other obligations or prohibitions, are imposed on insurance companies of this State doing business in such State or nation, or upon their agents therein, so long as such laws continue in force, the same obligations and prohibitions of whatever kind shall be imposed upon all insurance companies of such other State or nation doing business within this State, and upon their agents here. (*Ibid*, § 17.)

**22.** It shall be unlawful for any person, company, or corporation, in this State, either to procure, receive, or forward applications for insurance in any company or companies not organized under the laws of this State, or in any manner to aid in the transaction of the business of insurance with any such company, unless duly authorized by such company and licensed by the Superintendent of Insurance, in conformity to the provisions of this act. (*Ibid*, p. 38, § 18.)

**23.** It shall be the duty of every insurance company doing business in this State to publish, at least once a year, in some newspaper of general circulation, in every county where such company has an agent, a certificate from the Superintendent of Insurance that such company has, in all respects, complied with the laws of the State relating to insurance. Said certificate shall also contain a statement, under the oath of the president or secretary of such insurance company, of the actual amount of paid-up capital, the aggregate amount of assets and liabilities, together with the aggregate income and expenditures of such company for the year preceding

the date of such certificate, a copy of which certificate shall be filed in the office of the Recorder in each county in which the company has an agent. No other publication than as above provided for shall be required of such companies. (*Ibid*, § 19.)

**24.** Any insurance company not organized under the laws of this State may appoint one or more general agents in this State, by resolution of their board of directors or managers, with authority to appoint other agents of said company in this State, a certified copy of which resolutions shall be filed with the Superintendent of Insurance; and agents of such company, appointed by such general agent, shall be held to be the agents of such company as fully, to all intents and purposes, as if they were appointed directly by the company. Agents for any such company in this State may be appointed by the president, vice-president, chief-manager, or secretary thereof, in writing, with or without the seal of the company, and when so appointed shall be held to be the agents of such company as fully as if appointed by the board of directors or managers in the most formal mode. (*Ibid*, § 20.)

**25.** Every county Recorder shall be authorized to demand and receive for every paper filed in his office under this act the sum of ten cents. (*Ibid*, § 21.)

**26.** When any life insurance company, transacting the business of insurance within the State of Ohio, shall desire to discontinue its business, the Superintendent shall, upon application of such company, or association, give notice of such intention in a paper published and having general circulation in the county in which said company or its general agency is located, at least once a week for six weeks, the expenses of publication to be paid by such company. After such publication, said Superintendent shall deliver up to such company, or association, the securities held by him belonging to them, on being satisfied, by the exhibition of the books and papers of such company, or association, and on examination to be made by himself or some competent disinterested person or persons to be appointed by him, and upon the oath of the president or principal officer and the secretary or actuary of the same, that all debts and liabilities of every kind are paid and extinguished, that are due, or may become due, upon any contract or agreement made with any citizen or resident of the United States. And the said Superintendent may also, from time to time, deliver up to said company, or association, or its assigns, any portion of said securities, on being satisfied that an equal proportion of the debts and liabilities of every kind that are due, or may become due, upon any contract or agreement made with any citizen or resident of the United States by said company, or association, has been satisfied; *Provided*, The amount of securities retained by him shall not be less than twice the amount of remaining liabilities. (*Ibid*, § 22.)

**27.** All the provisions of this act relating to insurance companies organized under the laws of any other State of the United States, shall apply to any company organized under the laws of the United States, for any of the purposes specified in this act; and all the provisions of this act relating to agents of companies organized under the laws of any State, shall apply to the agents of such companies, organized under the laws of the United States; and any violation of the provisions of this act by any person, or agent, in the employment of any such company organized under the laws of the United States, shall subject the offender to the same penalties pro-



vided by this act for any violation of its provisions by persons acting for similar companies organized under the laws of any other State of the United States. (*Ibid*, p. 39, § 23.)

**28.** Every person who shall knowingly and willfully violate any of the provisions of this act, shall be deemed guilty of a misdemeanor, and shall be liable to prosecution therefor, as in cases of other misdemeanors, and on conviction thereof, shall be fined in any sum not exceeding five hundred dollars; and any corporation, or any officer or agent thereof, willfully violating any of the provisions of this act, shall be liable to prosecution, and on conviction thereof shall be fined in any sum not exceeding one thousand dollars; which fines shall, when collected, be paid into the treasury of the proper county for the benefit of the common school fund; and, moreover, such person or corporation shall be liable in damages to the party injured by reason of such violations. (*Ibid*, § 24.)

**29.** The provisions of this act shall apply to individuals and parties, and to all companies and associations, whether incorporated or not, now or hereafter engaged in the business of insurance. It shall be unlawful for any company, corporation, or association, whether organized in this State or elsewhere, either directly or indirectly, to engage in the business of insurance, or to enter into any contracts substantially amounting to insurance, or in any manner to aid therein, in this State, without having first complied with all the provisions of this act. (*Ibid*, § 25.)

#### INSURANCE COMPANIES OTHER THAN LIFE.

**30.** Hereafter, when any number of persons, as required by the first section of the act entitled "An act to provide for the creation and regulation of incorporated companies in the State of Ohio," passed May 1, 1852, and the acts amendatory thereto, shall associate to form an insurance company for any other purpose than life insurance, they shall, under their hands and seals, make a certificate, specifying the name assumed by such company, and by which it shall be known, the object for which said company shall be formed, the amount of its capital stock, and the place where the principal office of said company shall be located; which certificate shall be acknowledged, certified, and forwarded to the Secretary of State, who shall submit the same to the Attorney-General for examination, and if found by him to be in accordance with the provisions of this act, and not inconsistent with the constitution and laws of this State and of the United States, he shall certify the same and deliver it back to the said Secretary, who shall have the right to reject any name or title of any company applied for, when he shall deem the name similar to one already appropriated, or likely to mislead the public. (*Laws of 1872*, p. 140, § 1.)

**31.** Upon the approval of said certificate by the Attorney-General and the Secretary of State, the said Secretary of State shall cause it to be recorded and copied in the same manner as is provided in the second section of said act, and a copy thereof deposited with the Superintendent of Insurance, and said persons, when incorporated, and having in all respects complied with the provisions of this act, are hereby authorized to carry on the business of insurance, as named in such certificate of incorporation,



and by the name and style provided therein, shall be deemed a body corporate, with succession; they and their associates, successors and assigns, shall have the same general corporate powers, and be subject to all the obligations and restrictions of said act, and of the acts amendatory and supplementary thereto, except as herein provided. (*Ibid*, § 2.)

**32.** No joint stock company shall be incorporated under this chapter with a smaller capital than one hundred thousand dollars, which stock shall be divided into shares of one hundred dollars each; nor shall any company on the plan of mutual insurance be organized in this State until agreements shall have been entered into for insurance with at least two hundred applicants, the premiums on which shall amount to not less than fifty thousand dollars, of which at least ten thousand dollars shall have been paid in cash, and notes of solvent parties, founded on actual and *bona fide* applications for insurance, shall have been received for the remainder. No one of the notes received as aforesaid shall amount to more than five hundred dollars, and no two shall be given for the same risk, or be made by the same person or firm, except when the whole amount of such notes shall not exceed five hundred dollars; nor shall any note be represented as capital stock unless a policy be issued upon the same within thirty days after the organization of the company, upon a risk which shall be for no shorter period than twelve months. Each of said notes shall be payable, in part or in whole, at any time when the directors shall deem the same requisite for the payment of losses by fire or inland navigation, and such incidental expenses as may be necessary for transacting the business of said company. And no note shall be accepted as part of such capital stock, unless the same shall be accompanied by a certificate of a justice of the peace of the town or city where the person making such note shall reside, that the person making the same is, in his opinion, pecuniarily good and responsible for the same; and no such note shall be surrendered during the life of the policy for which it was given. (*Ibid*, p. 141, § 3, as amended by laws of 1873, p. 147.)

**33.** The persons named in the certificate of incorporation, or a majority of them, shall be commissioners to open books for the subscription of stock in the company, at such times and places as they shall deem convenient and proper, and shall keep the same open until the full amount specified in the certificate is subscribed. (*Ibid*, § 4.)

**34.** The affairs of any company organized under this act, or organized under any of the laws or charters of this State, shall be managed by not more than twenty-one nor less than five directors, all of whom shall be members or stockholders. Within one month after the subscription book shall have been filled and the certificate of incorporation shall have been filed with the Secretary of State, as the first and second sections of the act to which this is an amendment provide, a majority of subscribers shall hold a meeting for the election of directors. The number of votes to which each subscriber is entitled shall be, in mutual companies, one vote each, and in joint stock companies, one vote for each share such subscriber may hold. The directors then elected shall continue in office until such time in the month of January thereafter as the by-laws of the company shall direct, and until others shall have been elected and qualified to succeed them in the trust, and shall have accepted the same. Mutual insurance companies, if they provide for it in their

by-laws, may elect said directors for three years, one-third of such directors' term of office to expire annually; those receiving the highest number of votes at the first election to be elected respectively for the longest term. (*Ibid*, § 5, as amended by laws of 1873, p. 180.)

**35.** It shall be unlawful for any insurance company organized under this chapter, or incorporated under any law of this State, for the purposes provided in the first section of this chapter, to invest its capital, or any part thereof, otherwise than in—

*First.*—United States bonds.

*Second.*—Ohio State bonds.

*Third.*—Bonds of any county, township, or municipal corporation in the State, issued in conformity with law.

*Fourth.*—Bonds and mortgages on unincumbered real estate within the State of Ohio worth fifty per cent. more than the sum loaned thereon, exclusive of buildings.

*Fifth.*—The stock of any national bank located in this State, organized under the provisions of an act of Congress entitled "An act to provide a national currency, secured by the pledge of United States stocks, and to provide for the circulation and redemption thereof," approved on the twenty-fifth day of February, in the year eighteen hundred and sixty-three, and acts amendatory of and supplementary to said act; or,

*Sixth.*—First mortgage bonds of railroads within this State, upon which default in the payment of the interest coupons has not been made within three years previous to the purchase thereof. But any funds accumulated in the course of business, or surplus money over and above the capital stock of any insurance company, may be loaned on, or invested in the above-named securities; or,

*First.*—Bonds and mortgages on unincumbered real estate within the State of Ohio worth fifty per cent. more than the sum loaned thereon, exclusive of buildings, unless such buildings are insured in some insurance company authorized to do business in this State, and the policy transferred to said company making the investment.

*Second.*—Bonds of any State of the United States.

*Third.*—Stocks, bonds, or other evidences of indebtedness of any solvent dividend-paying institution incorporated under the laws of this or any other State, or of the United States, except their own stock; or,

*Fourth.*—Negotiable promissory notes maturing in not more than six months from the date thereof, secured by collateral security through the transfer of any of the classes of securities above described in this section, with absolute power of sale within twenty days after default in payment at maturity; *Provided, always,* That no insurance company shall own more than one-fourth of the capital stock of any one national bank, nor invest in, nor loan on, the stocks and bonds, both included, of any one railroad company to an extent exceeding one-tenth of its own capital, nor in the aggregate shall the investment in, and loan on, all railroad property exceed one-fourth of its capital. Not more than one-half of its capital shall be loaned on mortgage of real estate, as above provided for the investment of capital, and not more than one-tenth of the capital actually existing of any company shall be invested in a single mortgage; *and Provided further,* That the current market value of all such stocks, bonds, or other evidences of indebtedness, as above mentioned, in which the accumulations or surplus money

over and above the capital stock of any insurance company may be loaned or invested, shall be at all times during the continuance of such loans at least twenty per cent. more than the sum loaned thereon. If any investment or loan shall be made in a manner not authorized by this chapter, the directors making or authorizing the same shall be personally liable to the stockholders for any loss occasioned thereby; but insurance companies organized under the laws of this State, now doing business, shall not be compelled to change any investment made in accordance with the acts heretofore passed regulating said companies. (*Ibid* § 6, as amended by laws of 1873, p. 147.)

**36.** Upon receiving notification that the proceedings required by the sections foregoing have been had, the Superintendent of Insurance shall cause an examination to be made, either by himself or some disinterested person specially appointed by him for that purpose, who shall certify under oath that the capital herein required of the company named has been paid in, and is possessed by it in money, or in such stocks and bonds and mortgages as are required by the sixth section of this chapter; and the corporators or officers of such company shall be required to certify, under oath, that the capital exhibited is *bona fide* the property of the company. Such certificates shall be filed in the office of the said Superintendent, who shall thereupon deliver to such company a certified copy of said certificates, which, on being placed on record in the office of the Recorder of the county where the company is to be located, in a book provided for that purpose by him, shall be their authority to commence business and issue policies; and such certified copy of said certificates may be used in evidence for or against said company, with the same effect as the original. (*Ibid*, p. 142, § 7.)

**37.** It shall be lawful for any company organized under this chapter—

*First.*—To insure houses, buildings, and all other kinds of property, against loss or damage by fire and lightning, in and out of the State; and to make all kinds of insurance on goods, merchandise, and other property in the course of transportation, whether on land or water, or on any vessel or boat, whatever the same may be.

*Second.*—To make insurance on the health of individuals, and against personal injury, disablement, or death, resulting from traveling or general accidents by land or water.

*Third.*—To insure the fidelity of persons holding places of public or private trust.

*Fourth.*—To receive on deposit and insure the safe keeping of books, papers, moneys, stocks, bonds, and all kinds of personal property; to lend money on bottomry or respondentia, and to cause itself to be insured against any loss or risk it may have incurred in the course of its business, and upon the interest which it may have in any property by means of any loan or loans which it may have made on mortgage, bottomry, or respondentia, and generally to do and perform all other matters and things proper to promote these objects;

*Provided,* That no company shall be organized to issue policies of insurance for more than one of the above four mentioned purposes, and no company that shall have been organized for either one of said purposes shall issue policies of insurance for any other. (*Ibid*, § 8, as amended by laws of 1874, p. 65.)

**38.** The annual meeting for the election of directors shall be

held at such time in the month of January as the by-laws of the company may direct; *Provided, however*, That if for any cause the stockholders or members shall fail to elect directors at their annual meeting, they may hold a special meeting on some subsequent day for that purpose, by giving thirty days' notice previous thereof in some newspaper of general circulation in the county where the principal office of the company shall be kept; and the directors chosen at any such annual or special meeting shall continue in office, as provided in section five of this act, and until their successors shall have been duly elected and qualified. (*Ibid*, p. 143, § 9, as amended by laws of 1873, p. 181.)

**39.** The directors shall choose, by ballot, a president from their own number, and shall fill all vacancies that may arise in the board or in the presidency thereof; and the board of directors, or a majority of them, when convened at the office of the company, shall be competent to exercise all the powers vested in them by this chapter. They shall also have power to appoint a secretary, and any other officers or agents necessary for transacting the business of the company, paying such salaries and taking such securities as they may judge reasonable; they may ordain and establish by-laws and regulations, not inconsistent with this chapter, or with the constitution and laws of this State and of the United States, as shall appear to them necessary for regulating and conducting the business of the company; and it shall be their duty to keep full and correct records of their transactions, which shall at all times be open to the inspection of the stockholders. (*Ibid*, § 10.)

**40.** All policies or contracts of insurance made or entered into by the company, may be made either with or without the seal thereof; they shall be subscribed by the president or such other officer as may be designated by the directors for that purpose, and shall be attested by the secretary, and, being so subscribed and attested, they shall be obligatory on the company. (*Ibid*, § 11.)

**41.** Transfers of stock may be made by any shareholder, or his legal representative, on the books of the company, subject to such reasonable restrictions as the directors may from time to time make in their by-laws, and subject, also, to any provisions of the laws of this State relating to such transfers. (*Ibid*, § 12.)

**42.** Whenever any company organized under this chapter shall, in the opinion of the directors thereof, require an increased amount of capital, they shall, if authorized by the holders of two-thirds of the stock, file with the Secretary of State a certificate setting forth the amount of such desired increase, and thereafter such company shall be entitled to have the increased amount of capital fixed by said certificate; and the examination of securities composing the capital stock thus increased shall be made in the same manner as is provided in section seven of this chapter for capital stock originally paid in. (*Ibid*, § 13.)

**43.** No fire insurance company organized under any law of this State shall make any dividend, except from the surplus profits arising from its business. In estimating such profits, there shall be reserved therefrom—

*First.*—A sum equal to fifty per cent. of the whole amount of premiums on unexpired risks and policies, which are hereby declared to be unearned premiums.

*Second.*—All sums due the company on bonds and mortgages, bonds, stocks, and book accounts, of which no part of the principal



nor the interest thereon has been paid during the preceding year, and for which foreclosure or suit has not been commenced, or which, after judgment obtained thereon, shall have remained more than two years unsatisfied, and on which interest shall have been paid; and,

*Third.*—All interest due or accrued and remaining unpaid for which the company does not hold securities as hereinbefore provided.

Any dividend made contrary to provisions of this section shall subject the company making the same to a forfeiture of its charter, and each stockholder receiving it to a liability to the creditors of such company to the extent of the dividend received, besides the other penalties and punishments prescribed by law. This section shall not apply to the declaration of scrip dividends by participating companies; but no such scrip dividend shall be paid, except from surplus profits, after reserving all sums above provided, including the whole amount of premiums on unexpired risks. The word "year," wherever used in this section, shall be construed to mean the calendar year. (*Ibid*, p. 144, § 14, as amended by laws of 1873, p. 149.)

**44.** No company organized under this chapter shall purchase, hold, or convey real estate, except for the purposes and in the manner herein set forth, to wit:

*First.*—Such as shall be requisite for its convenient accommodation in the transaction of its business; or,

*Second.*—Such as shall have been mortgaged to it in good faith, by way of security for loans previously contracted, or for money due; or,

*Third.*—Such as shall have been conveyed to it in satisfaction of debt previously contracted in its legitimate business, or for money due; or,

*Fourth.*—Such as shall have been purchased at sales upon judgment, decrees, or mortgages obtained or made for such debts.

And it shall not be lawful for any such company to purchase, hold, or convey real estate in any other case, or for any other purpose; and all such real estate as may be acquired as aforesaid, and which shall not be necessary for the accommodation of such company in the transaction of its business, shall be sold and disposed of within two years after such company shall have acquired title thereto, unless the company shall procure a certificate from the Superintendent of Insurance that the interests of the company will suffer materially by a forced sale thereof, in which event the sale may be postponed for such period as the said Superintendent shall direct in such certificate. (*Ibid*, § 15.)

**45.** Every person effecting insurance in any mutual company, and also their heirs, executors, administrators, and assigns, continuing to be so insured, shall thereby become members of said corporation during the period of insurance, and shall be bound to pay for losses and such necessary expenses, as aforesaid, accruing in and to said company, in proportion to the amount of his deposit note or notes. The directors shall, as often as they deem necessary, after receiving notice of any loss or damage by fire sustained by any member, and ascertaining the same, or after the rendition of any judgment against said company for loss or damage, settle and determine the sums to be paid by the several members thereof as their respective portion of such loss, and publish the same in such man-

ner as they shall see fit, or as the by-laws shall have prescribed; and the sum to be paid by each member shall always be in proportion to the original amount of his deposit note or notes, and shall be paid to the officers of the company within thirty days next after the publication of said notice. And if any member shall, for the space of thirty days after the publication of said notice, and after personal demand for payment shall have been made, neglect or refuse to pay the sum assessed upon him as his proportion of any loss as aforesaid, in such cases the directors may sue for and recover the whole amount of his deposit note or notes, with costs of suit; but execution shall only issue for assessments and costs as they accrue, and every such execution shall be accompanied by a list of losses for which the assessment is made. If the whole amount of deposit notes shall be insufficient to pay the loss occasioned by any fire or fires, in such case the sufferers insured by the said company shall receive, towards making good their respective losses, a proportional share of the whole amount of said notes, according to the sums by them respectively insured; but no member shall ever be required to pay, for any loss occasioned by fire or inland navigation, more than the whole amount of his deposit note. (*Ibid*, p. 145, § 16.)

**46.** Every mutual insurance company shall embody the word "mutual" in its title, which shall appear upon the first page of every policy and renewal receipt; and every stock company shall, upon the face of every policy and renewal receipt, in some suitable manner, express that such policy or receipt is a stock policy or receipt, and neither class of companies doing business in this State shall issue any policy other than that appropriate to its class; *Provided*, That any mutual insurance company now doing business in this State, having net assets not less than two hundred thousand dollars, invested as provided in section six of this chapter, for the capital stock, may issue policies either upon the mutual or stock plan, and may continue to do such kind of business as above, as long as their assets shall continue invested as above; *and Provided*, *further*, That any mutual insurance company having assets so invested, shall have the right to expose itself to loss on any one risk or hazard, either by one or more policies, to an amount not exceeding five per cent. thereof. (*Ibid*, § 17.)

**47.** It shall be the duty of the president or vice-president and secretary of each insurance company organized under this chapter, or incorporated under any law of this State, as enumerated in the eighth section of this act, other than marine insurance companies, annually, on the first day of January, or within thirty days thereafter, and of each marine insurance company within sixty days thereafter, to prepare, under oath, and deposit in the office of the Superintendent of Insurance, a statement of the condition of such company on the thirty-first day of December then next preceding, exhibiting the following facts and items, in the following form, namely:

*First*.—The amount of the capital stock of the company, specifying the amount paid and unpaid.

*Second*.—The property or assets held by the company, specifying:

1. The value, or as nearly as may be, of the real estate owned by such company, where situate, and value of buildings.
2. The amount of cash on hand and deposited in banks to the

credit of the company, specifying in what banks the same is deposited.

3. The amount of cash in the hands of agents and in course of transmission.

4. The amount of loans secured by bonds and mortgages, constituting the first lien on real estate, on which there shall be less than one year's interest due or owing.

5. The amount of loans on which interest shall not have been paid within one year.

6. The amount due the company on which judgments have been obtained, and the cash value thereof.

7. The amount of stocks of this State, the United States, of any incorporated city of this State, and of any other stocks owned by the company, specifying the amount, number of shares, and par and market value of each kind of stock.

8. The amount of stock held as collateral security for loans, with the amount loaned on each kind of stock, its par value, and market value.

9. The amount of assessments on stock or premium notes unpaid.

10. The amount of interest actually due and unpaid, and the amount of interest accrued but not due.

11. The amount of premium notes on which policies are issued.

12. The number of policies in force.

13. The amount insured under all policies in force.

14. The amount of premiums received thereon.

15. The amount of all other assets, specifying what.

*Third.*—The liabilities of such company, specifying:

1. The amount of losses due and unpaid.

2. The amount of claims for losses resisted by the company.

3. The amount of losses incurred during the year, including those claimed and not due, and those reported to the company upon which no action has been taken.

4. The amount of dividends declared and due and remaining unpaid.

5. The amount of dividends, either cash or scrip, declared but not due.

6. The amount of money borrowed and security given for the payment thereof.

7. The amount required for reinsurance, being in joint-stock companies a sum equal to fifty per cent. of the whole amount of premiums on unexpired risks and policies, and in mutual insurance companies a sum equal to fifty per centum of the cash premiums received on unexpired risks and policies.

8. The amount of all other existing claims against the company.

*Fourth.*—The income of the company during the preceding year, specifying:

1. The amount of cash premiums received.

2. The amount of notes received for premiums.

3. The amount of interest money received.

4. The amount of income received from other sources.

*Fifth.*—The expenditure during the preceding year, specifying:

1. The amount of losses paid during the year, stating how much of the same accrued prior, and how much subsequent to

the date of the preceding statement, and the amount at which losses were estimated in such preceding statement.

2. The amount of dividends paid during the year.

3. The amount of expenses paid during the year, including commissions and fees to agents and officers of the company.

4. The amount paid in taxes.

5. The amount of all other payments and expenditures.

(*Ibid*, p. 146, § 18, as amended by laws of 1873, p. 149.)

**48.** The statement of any such company, the capital of which is composed in whole or in part of notes, shall, in addition to the foregoing, exhibit the amount of notes originally forming the capital, and also what proportion of said notes is still held by such company and considered capital. Every insurance company organized under any law of this State failing to make and deposit such statement, or to reply to any inquiry of the said Superintendent, shall be subject to a penalty of five hundred dollars, and an additional five hundred dollars for every month that such company shall continue thereafter to transact any business of insurance. (*Ibid*, p. 147, § 19.)

**49.** It shall not be lawful for any insurance company, association or partnership, incorporated, organized or associated under the laws of any other State of the United States, or any foreign government, for any of the purposes mentioned in this chapter, directly or indirectly, to transact any business of insurance in this State, without first procuring from the Superintendent a certificate of authority so to do; nor shall it be lawful for any person or corporation, directly or indirectly, to act as agents in this State for any such company or association, either in procuring applications for insurance, taking risks or in any manner transacting the business of insurance, without first procuring from the Superintendent a license so to do, stating also that said company has complied with all the requisitions of this act applicable to such company, and depositing a certified copy of such license in the office of the Recorder of the county in which the office or place of business of such agent or agents may be established; nor shall it be lawful for any insurance company, association or partnership, organized under the laws of any other State, directly or indirectly, to take risks or transact business of insurance in this State, unless possessed of the amount of actual capital required of similar companies formed under the provisions of this chapter, nor unless the entire capital stock of said company be fully paid up and invested as required by laws of the State where organized; and any company desiring to transact any business as aforesaid, by any agent or agents, in this State, shall file with the Superintendent a written instrument, duly signed and sealed, authorizing any agent or agents of such company in this State to acknowledge service of process for and in behalf of such company in this State, consenting that service of process, mesne or final, upon any such agent or agents, shall be taken and held to be as valid as if served upon the company according to the laws of this or any other State or country, and waiving all claim or right of error by reason of such acknowledgment of service; also waiving all claim or right to transfer or remove any cause then or thereafter pending in any of the courts of this State, wherein such company may be a party, to any of the courts of the United States; and consenting that suit may be brought thereon in the county where the property insured was situate, or where the same was insured, and



that service of process made therein by the sheriff of such county, by sending a copy thereof by mail, addressed to the company at the place of its principal office, located in the State where such company was organized, in case of a company organized under the laws of any other State of the United States, and in case of a foreign insurance company, then such copy of summons or other process shall be mailed, postage prepaid, to such company, at the place of its principal office in the United States, at least thirty days prior to taking judgment in said suit, shall be as valid as if personally made upon said company according to the laws of this State or any other State or government; and in case suit shall be brought against any company which has ceased to do business in the State as aforesaid, service upon such company shall be had by the sheriff mailing a copy of the summons or other process, postage prepaid, addressed to such company at the place of its principal office when it ceased to do business in this State as aforesaid, at least thirty days prior to the date of taking judgment in said suit; *Provided*, That the sheriff's return shall show the time and manner of such service. They shall also file with the Superintendent, a certified copy of their charter or deed of settlement, together with a statement, under the oath of the president or vice-president, or other chief officer, and the secretary of the company for which he or they may act, stating the name of the company and place where located, the amount of its capital, with a detailed statement of the facts and items required from the companies organized under the laws of this State, as per section eighteen and nineteen of this chapter; also, a copy of the last annual report, if any was made, under any law of the State by which such company was incorporated. (*Ibid*, § 20, as amended by laws of 1873, p. 151.)

**50.** Any company incorporated by or organized under the laws of any foreign government, shall deposit with the Superintendent of Insurance, for the benefit and security of the policy-holders residing in this State, a sum not less than one hundred thousand dollars, in stocks of the United States or the State of Ohio, said stocks not to be received by said Superintendent at a rate above their par value; the stocks and securities so deposited may be exchanged from time to time for other like securities. So long as the company so depositing shall continue solvent and comply with the laws of this State, it shall be permitted by such Superintendent to collect the interest or dividends on said deposit. For the purpose of this act, the capital of any foreign insurance company doing fire insurance business in this State shall be deemed to be the aggregate value of its deposits with the insurance or other departments of this State, and of the other States of the United States, for the benefit of policy-holders in this State or in the United States, and its assets and investments certified according to the provisions of this act in the United States; *Provided*, That such assets and investments be vested in and held within the United States by trustees, citizens of the United States, appointed by the board of directors of the company, and approved by the Insurance Commissioner of the State where invested, for the benefit of the policy-holders and creditors in the United States. The trustees so chosen are hereby empowered to take, hold and convey real and personal property for the purpose of the trust, subject to the same restrictions as insurance companies of this State. (*Ibid*, p. 149, § 21, as amended by laws of 1873, p. 152.)

**51.** Every insurance company other than life, organized by the act of Congress or under the laws of any other State or government, shall annually, at the same time and in the same form and manner as required of similar companies organized under the laws of this State, file a statement of its condition and affairs in the office of the Superintendent of Insurance. Any company organized under or incorporated by any foreign government, shall also furnish a supplementary statement for the year ending on the preceding thirty-first day of December, verified by the oath of the manager of such company residing in the United States; such supplementary statement shall comprise a report of their business and affairs in the United States, as required from companies organized in this State, together with any other information that may be required by the Superintendent of Insurance. If the said annual statement shall be satisfactory evidence to the Superintendent of Insurance of the solvency and ability of such company to meet all its engagements at maturity, and that the said deposit is maintained as hereinbefore provided, he shall issue renewal certificates of authority to the agents of said company, certified copies of which shall be filed in the County Recorder's office of the county where the agency is located, during the month of January in each year, or within sixty days thereafter, which certificate shall be the authority of such agents to issue new policies in this State for the ensuing year. (*Ibid*, § 22.)

**52.** Every company heretofore organized under any law of this State for any of the purposes mentioned in this chapter, which has not called in the whole amount of its subscribed capital stock, whether the unpaid balance of such capital be secured by indorsed notes or otherwise, shall retain from each and every dividend declared to its stockholders, their heirs or assigns, fifty per cent. of such dividend, and shall apply the amount so withheld as a credit upon the balance remaining unpaid on the shares of such stockholders until such balance shall be fully paid; and the dividends from time to time so credited, with the capital previously paid in, shall be invested by the company in the manner required by the sixth section of this chapter; *Provided, however*, That if the dividends credited as aforesaid shall not, within five years from the first day of January, 1873, be equal to said balance in full, such company shall thereafter retain the whole amount of any and every dividend declared to its stockholders, their heirs or assigns, and shall credit and invest the same as aforesaid, until the whole subscribed capital shall be paid up and invested, not less in any case than one hundred thousand dollars; and any company violating any of the provisions of this section shall thereby forfeit its charter. (*Ibid*, p. 150, § 23, *as amended by laws of 1873, p. 153.*)

**53.** All buildings heretofore or hereafter insured by any mutual insurance company, shall be pledged to such company, together with the right and title of the insured in the lands upon which they are situate, to the amount of the premium note to be insured; and the company shall have a lien thereon to the amount of such note, but the lien of the company shall not take effect until the company shall file with the Recorder of the county in which the property insured is situate, a certificate stating the date, number and amount of such premium note, and such a description of the property insured as will enable any one readily to identify the same. The Recorder shall record and index said certificate in his book of liens, for which he shall receive the sum of fifty cents; and all liens heretofore

acquired by any such insurance company shall continue in force under this act. (*Ibid*, § 24.)

**54.** No company or corporation organized under the laws of any other State, or of the United States or of any foreign government, doing a banking or any other kind of business in connection with insurance, shall do business in this State. (*Laws of 1873, p. 153, § 2, as amended by laws of 1874, p. 12.*)

**55.** Whenever any joint stock fire and marine insurance company of this State heretofore organized, or that may hereafter be organized, shall determine by a vote of two-thirds of its stock, to consolidate and make joint stock with any other like company or companies, engaged in or incorporated for like business, and each of such companies agreeing by the vote aforesaid to such consolidation, shall, by a vote of a majority of the stock so consolidated, choose and determine under which corporate organization, or articles of association of either of the consolidating companies, and under what name their future business shall be conducted, and upon filing with the Superintendent of Insurance of this State a certificate of such consolidation, said company shall from thenceforth become, and be consolidated under the corporate organization or articles of association and corporate name thus chosen; and thereupon all franchises, rights, equities, property and estate of whatever name or nature belonging to or vested in either of the consolidating companies, shall immediately upon and by the act of such consolidation become the property and estate of and be vested in such consolidated company, and the corporate existence of the consolidating companies, from thenceforth shall cease and be merged in said consolidation; and such consolidated company shall have the exclusive right and power to demand, sue for, collect, convey and dispose of the rights, equities, property and estate aforesaid, or any part thereof, under its own name chosen as aforesaid, and all debts, liabilities and obligations of the consolidating companies shall be assumed and paid by the company thus consolidated. (*Laws of 1873, p. 19, § 1.*)

**56.** Upon the consolidation of any two or more companies as aforesaid, the just and true value of each outstanding share of the capital stock of each of the consolidating companies shall, by their respective directors, be ascertained through a suitable valuation of all the assets and liabilities thereof, at the time of the consolidation, and new shares of the consolidated company shall be apportioned to each stockholder, equal to the sum ascertained as aforesaid to be the just and true value of his shares in each or either of the consolidating companies, and the shares thus apportioned shall be substituted for his original shares, and all certificates of shares in said consolidating companies shall be surrendered upon the issuing of new certificates of the shares apportioned as aforesaid; *Provided*, That any stockholders in either of the companies so consolidating, who shall refuse to agree to such consolidation, shall be entitled to receive for the stock by him owned, the just market value of the same at the time of such consolidation, to be paid to him previous to such consolidation. (*Ibid*, p. 20, § 2.)

**57.** Immediately upon the consolidation of such companies, the directors of the several companies thus consolidating shall proceed to elect from their members the directors for the consolidated company, who shall serve until their successors are elected and qualified. (*Ibid*, § 3.)

**58.** The capital stock of such consolidated company may be

equal to, but shall not, by virtue of such consolidation, exceed the aggregate authorized capital of the consolidating companies. (*Ibid*, § 4.)

**59.** Within thirty days after such consolidation a certificate of the fact thereof, and setting forth the name and organization adopted thereby, shall be filed in the office of the Secretary of State. (*Ibid*, p. 21, § 5.)

### LIFE INSURANCE COMPANIES.

**60.** Any number of persons, not less than thirteen, may associate and form a corporation or company, to make insurance upon the lives of individuals, and every insurance appertaining thereto or connected therewith, on the mutual or stock plan, and to grant, purchase or dispose of annuities. (*Laws of 1872*, p. 150, § 1.)

**61.** Every life insurance company organized under the laws of this State shall have authority to reinsure any risk herein authorized to be undertaken. (*Ibid*, § 2.)

**62.** No life insurance company organized under the laws of this State shall undertake any business or risk, except as herein provided, and no company, partnership, or association, organized or incorporated by act of Congress, or under the laws of this or any other State of the United States, or by any foreign government, transacting the business of life insurance in this State, shall be permitted or allowed to take any other kind of risks except those connected with or appertaining to making insurance on life, and granting, purchasing and disposing of annuities; nor shall the business of life insurance in this State be in any wise conducted or transacted by any company, partnership, or association, which in this, or any other State or country, makes insurance on marine, fire, inland or any other risk; *Provided*, That insurance companies now doing a life and accident, or accident insurance business within this State, shall not be prohibited by the provisions of this act from the continuance of the same. (*Ibid*, § 3.)

**63.** The persons referred to in the first section of this chapter shall be designated as incorporators, and they shall file in the office of the Secretary of State a declaration signed by each of the incorporators, setting forth their intentions to form a company for the purposes named in this chapter, which declaration shall comprise a copy of the charter they propose to adopt, and the said charter shall set forth the name of the company, the place where it is to be located, the kind of business to be undertaken, the manner in which the corporate powers of the company are to be exercised, the manner of electing the trustees or directors, and the number thereof, and officers, a majority of whom shall be citizens of this State, and the time of such election, the manner of filling vacancies, the amount of capital to be employed, and such other particulars as may be necessary to explain and make manifest the objects and purposes of the company, and the manner in which it is to be conducted. (*Ibid*, p. 151, § 4.)

**64.** Whenever the incorporators shall file such declaration with the Secretary of State, it shall become his duty to submit the same to the Attorney-General for examination, and if found by him to be in accordance with the provisions of this act, and not inconsistent with the constitution and laws of the United States, and of this



State, he shall certify to the same, and deliver it back to the said secretary, who shall cause the said declaration, with the certificate of the Attorney-General, to be recorded in a book to be kept for that purpose; and upon application of the corporators to the said secretary, it shall become his duty to furnish a certified copy of such declaration and certificate to the said corporators. (*Ibid*, § 5.)

**65.** Whenever the corporators shall have received from the secretary the certified copy provided for in section five (5) of this chapter, and desire to proceed to organize such company, they shall publish their intention in a paper published and having general circulation in the county in which said company is to be organized; and when such intention shall have been published in said newspaper for six weeks, they may open books to receive subscriptions to the capital stock, and keep such books open until the amount required by this act is subscribed, and may then proceed to distribute the stock among the subscribers, if more than the necessary amount is subscribed, and proceed to collect in the said capital, and complete the organization of the company. When any life insurance company organized under this chapter, or any law of this State, shall, in the opinion of the Board of Directors thereof, require a larger amount of capital than that fixed by its charter or certificate of incorporation, they shall, if authorized by the holders of two-thirds of the stock, file with the Secretary of State a certificate setting forth the amount of such desired increase, and thereafter such company shall be entitled to have the increased amount of capital fixed by said certificate, and the same shall be invested as required by section seven (7) of this chapter. (*Ibid*, § 6.)

**66.** No life insurance company shall be organized under this chapter with a less capital than one hundred thousand dollars. The whole capital of such company shall, before proceeding to business, be paid in and invested in treasury notes, or in stocks of the United States, or in stocks of the State of Ohio, or in mortgages on unincumbered real estate within the State of Ohio, worth double the amount loaned thereon, exclusive of buildings. (*Ibid*, p. 152, § 7, as amended by laws of 1873, p. 118.)

**67.** Any life insurance company organized under this chapter, or any other law of this State, may invest its capital in stocks, bonds and mortgages, or securities mentioned in the preceding section, and change and invest the same, or any part thereof, in like manner, at pleasure; but no company shall commence business until it has deposited with the Superintendent of Insurance at least one hundred thousand dollars in the stocks, bonds and mortgages aforesaid, or one or more of them, duly made or assigned to said Superintendent in trust for the purposes mentioned in this act. And when any mortgage of real estate has been or shall hereafter be assigned to said Superintendent, said assignment shall be immediately entered in the records of the county in which such real estate is situate; the fee for the recording of which shall be paid by the company. (*Ibid*, § 8.)

**68.** The Superintendent of Insurance shall hold such securities as security for policy-holders in said companies; but as long as any company so depositing shall continue solvent, he shall permit such company to collect the interest or dividends on its securities so deposited, and from time to time to withdraw such securities, or any part thereof, on depositing with said Superintendent other securities

of the kinds heretofore named, and of equal value with those withdrawn. (*Ibid*, § 9.)

**69.** Whenever the corporators shall have fully organized such company, and shall have deposited with the Superintendent the requisite amount of capital, said Superintendent shall furnish the company with a certificate of such deposit, which, with a certified copy of the papers required by this chapter, when filed in the County Recorder's office of the county wherein such company is located, shall be the authority to commence business and issue policies, and the same may be used in evidence for and against the company in all suits. (*Ibid*, § 10.)

**70.** It shall be lawful for any life insurance company organized under the laws of this State to invest its accumulations of bonds and mortgages on unincumbered real estate, worth fifty per cent. more than the amount loaned thereon, exclusive of buildings, unless such buildings shall be insured in some insurance company authorized to do business in this State, and the policy or policies of insurance be assigned as collateral security for the loan so made, when, in addition to the amount authorized to be loaned on real estate exclusive of buildings, there may be added thereto not exceeding fifty per cent. on the amount of the policy or policies so assigned; or in stock or treasury notes of the United States; or in stock or bonds of the State of Ohio; or in bonds of any county or incorporated city in this State, authorized by law; or in first mortgage railroad bonds; or to invest not to exceed ten per cent. of its accumulations in the stock of any dividend-paying railroad company; and they may lend the same, or any part thereof, upon the pledge of such stocks, bonds or treasury notes; *Provided*, That the current market value of said stocks, bonds or treasury notes of the United States, or of the State of Ohio, shall be at least ten (10) per cent. more than the amount loaned thereon, or that the current market value of the said bonds or stocks of any county, city, or railroad, shall be at least twenty-five per cent. more than the amount loaned thereon; or they may loan upon the stocks of the national banks incorporated within the State of Ohio, but the current market value of such stocks shall be at least fifty per cent. more than the amount loaned thereon. Loans may also be made upon any policy in force in said company, but not to exceed the value of the same, according to the basis hereinafter provided. (*Ibid*, p. 153, § 11.)

**71.** No life insurance company organized under the laws of this State shall be permitted to purchase, hold or convey real estate, except for the purposes and in the manner herein set forth, to wit:

*First.*—Such as shall be requisite for its immediate accommodation in the transaction of its business; or,

*Second.*—Such as shall have been mortgaged to it in good faith, by way of security, for loans previously contracted, or for moneys due; or,

*Third.*—Such as shall have been conveyed to it in satisfaction of debts previously contracted in the course of its dealings; or,

*Fourth.*—Such as shall have been purchased at sales upon judgments, decrees or mortgages obtained or made for such debts. and it shall not be lawful for any company incorporated as aforesaid to purchase, hold or convey real estate in any other case or for any other purpose. (*Ibid*, § 12.)

**72.** All such real estate as may be acquired as aforesaid, and

which shall not be necessary for the accommodation of such company in the convenient transactions of its business, shall be sold and disposed of within two years after such company shall have acquired title to the same; and it shall not be lawful for such company to hold such real estate for a longer period than that above mentioned, unless the said company shall procure a certificate from the Superintendent of Insurance that the interests of the company will suffer materially by a forced sale of such real estate, in which event the time for the sale may be extended to such time as the said Superintendent shall direct in said certificate. (*Ibid*, § 13.)

**73.** The corporators, or the trustees or directors, as the case may be, of any life insurance company organized under the laws of this State, shall have power to adopt a seal, and to make such by-laws, not inconsistent with this act or the constitution and laws of this State, as may be deemed necessary for the management of its affairs. (*Ibid*, p. 154, § 14.)

**74.** Suits at law may be maintained by any life insurance company formed under the laws of this State against any of its members, officers, policy-holders or stockholders, for any cause relating to the business of such company; also, suit at law may be prosecuted and maintained by any member, stockholder or policy-holder, or the heirs or legal representative of either, against such company for losses which may have accrued, if payment is withheld more than two months, on all risks, after such losses shall have been due. (*Ibid*, § 15.)

**75.** It shall not be lawful for the directors, trustees, managers, or officers of any life insurance company organized under the laws of this State, directly or indirectly, to make or pay any dividend, or pay any interest, bonus or other allowances in lieu of dividend, to its stockholders, except from the surplus funds, after reserving therefrom an amount sufficient to reinsure all its outstanding risks and policies, estimating the value thereof by the table known as the American Experience Table, with interest at four and one-half per cent. per annum. (*Ibid*, § 16.)

**76.** It shall be the duty of the president or vice-president and secretary or actuary, or a majority of the trustees or directors of each life insurance company organized under the laws of this State, annually, on the first day of January, or within sixty days thereafter, to prepare, under oath, and deposit in the office of the Superintendent of Insurance, a statement showing the condition of the company on the thirty-first day of December then next preceding, exhibiting the following facts and items, in the following form, to wit:

*First.*—The number of policies issued during the year.

*Second.*—The amount of insurance effected thereby.

*Third.*—Amount of premium received during the year.

*Fourth.*—Amount of interest and all other receipts, specifying the items.

*Fifth.*—Amount of losses paid during the year.

*Sixth.*—Amount of losses unpaid.

*Seventh.*—Amount of expenses.

*Eighth.*—Whole number of policies in force.

*Ninth.*—Amount insured thereby.

*Tenth.*—Amount required to reinsure all policies in force, estimating the same by the table known as the American Experience Tables, with interest at four and one-half per cent. per annum; also, amounts of all other liabilities

*Eleventh.*—Amount of capital stock, specifying amount paid and unpaid.

*Twelfth.*—Amount of assets, and manner in which they are invested, specifying what amount in real estate, on bonds and mortgages, stocks, loans on stocks, premium notes, credits or other securities.

*Thirteenth.*—Amount of dividends unpaid.

*Fourteenth.*—An exhibit of the policy obligations of the company, as follows: With the first annual statement required under the provisions of this chapter, there shall be prepared and deposited a schedule showing the number, date, age, when insured, amount insured, term of policy, and term of premium of all policies then in force, and with every succeeding annual statement a schedule of the foregoing items as to all policies issued during the year, and a similar schedule as to policies which shall have ceased to be in force during the year. (*Ibid*, § 17, as amended by laws of 1873, p. 119.)

**77.** It shall not be lawful for any life insurance company organized by act of Congress, or by or under the laws of any other State of the United States, to transact any business of insurance in this State, without first procuring from the Superintendent of Insurance a certificate of authority so to do; nor shall it be lawful for any person or corporation, directly or indirectly, to act as agent in this State for any such company, either in procuring applications for insurance, taking risks, or in any manner transacting the business of insurance, without first procuring from the Superintendent of Insurance a license so to do, in which said Superintendent shall state that said company has complied with all the requisitions of this act applicable to such company, and depositing a certified copy of such license in the office of the Recorder of the county in which the office or place of business of such agent shall be established; nor shall it be lawful for any such insurance company to take risks, or transact any business of insurance in this State, unless possessed of the amount of actual capital required of similar companies organized in this State, under the provisions of this act, nor unless the entire capital stock of said company is fully paid up, and invested, as required by the laws of the State where organized; and any such company, desiring to transact any such business in this State, by an agent or agents, shall file with the Superintendent of Insurance a written instrument, duly signed and sealed, authorizing any agent or agents of such company in this State to acknowledge service of process for and in behalf of such company in this State, consenting that the service of process, mesne or final, upon any such agent or agents, shall be taken and held to be valid, as if served upon the company, according to the laws of this or any other State or government, and waiving all claims or right of error by reason of such acknowledgment of service; also waiving all claim or right to transfer or remove any cause then and thereafter pending in any courts of this State, wherein such company may be a party, to any of the courts of the United States; and in case suit shall be brought against any company which has ceased to do business in this State as aforesaid, and there shall be no agent of said company in the county in which suit is brought, upon whom service of process can be had, as provided in section 19 of this act, service upon such company shall be had by the sheriff mailing a copy of the summons or other process, postage prepaid, addressed to such company at the place of its principal office, located in the State where such company



was organized; in case of a company organized under the laws of any State of the United States, and in case of a foreign insurance company, then such copy of summons or other process shall be mailed, postage prepaid, to such company, or the place of its principal office in the United States, at least thirty days prior to the date of taking judgment in said suit; *Provided*, That the sheriff's return shall show the time and manner of such service. Said company shall also file a certified copy of its charter or deed of settlement, together with a statement, under the oath of the president, vice-president, or other chief officer or manager, and secretary of such company, stating the name of the company, the place where it is located, and amount of its capital, with a detailed statement of all the facts required in the annual statements required of companies organized under this chapter, except as to statement required by item fourteen, section seventeen, of this chapter, which statement shall be required of said companies only when required by the Superintendent of Insurance, for purposes of actual valuation, as provided by the insurance laws of this State; also, a copy of their last annual report, if any were made; nor shall it be lawful for any such company to transact any business of insurance in this State, unless at least one hundred thousand dollars of its capital is invested in the interest-paying bonds or stocks of the United States, or of this State, or of some other State of the United States, of the market value of one hundred thousand dollars, in the city of New York, or in bonds and mortgages of unincumbered real estate in this State, or in the State under the laws of which such company is or may be organized, of at least double the value of the amount loaned thereon; and such bonds and mortgages deposited with the Superintendent of Insurance of this State, or the chief financial or other officer of the State in which such company is or may be organized, designated by the laws of such State to receive the same; and if said bonds and mortgages be deposited with the Superintendent of Insurance or other officer of another State as aforesaid, the Superintendent of Insurance of this State shall be furnished with the certificate of such other State officer, under his hand and official seal, that he, as such officer, holds in trust and on deposit, for the benefit of all the policy-holders of such company, the securities above mentioned, giving the items of such securities, and stating that he is satisfied such securities are worth at least one hundred thousand dollars; *Provided*, That nothing herein contained shall be construed to prevent the company from collecting the interest on such securities, so long as it continues solvent, and complies with all the provisions of this act applicable to it, nor from exchanging for other securities of equal value, and of the kind hereinbefore named, with the officers having them in trust as aforesaid; and *Provided*, further, That in the cases of mutual companies, actual cash assets of the same amount and description, invested and deposited as required by the laws of the State wherein organized, shall be accepted in lieu of capital stock; *Provided*, That no answer or answers to any interrogatory or interrogatories, made by any applicant, in his or her application for a life policy, shall bar the right to recover upon any policy issued upon such application, or be used in evidence upon any trial to recover upon such policy, unless such answer or answers shall first be clearly proven to have been willfully false and fraudulently made, and that such answer or answers are material, and induced such policy to be issued, and but for such answer

or answers such policy would not have been issued; and moreover, that the agent or company had no knowledge of the falsity or fraud of such answer or answers, (*Ibid*, p. 155, § 18, as amended by laws of 1873, p. 97.)

**78.** All licenses granted by the Superintendent of Insurance in pursuance of this chapter shall continue in force, unless suspended or revoked, until the first day of April of the year next after the date of their issue; and in case any life insurance company organized under the laws of any other State or government shall cease to do business in this State according to law, the said company shall appoint, in the manner herein provided for, in every county wherein an agency existed at the date of such discontinuance to do business, one or more agents for the purpose of receiving service of process in all actions upon policies of insurance issued to the citizens of this State while such company was lawfully transacting the business of insurance in this State, and service of process in the actions aforesaid upon such agents shall be held to be as valid as actual service upon the company; and in every case where no such agent shall be appointed, the agent last designated and acting for said company shall be deemed and taken to be duly authorized by said company as to receive service of process as aforesaid; *Provided, however,* That the officer serving such process shall also send a copy of the process served on such agent, by mail, to the address of such company, at the place of its principal or home office at the time it ceased to do business in this State, and the return of such officer upon such process shall distinctly show that such copy was mailed as aforesaid, at least thirty days before any judgment shall be rendered in such action. (*Ibid*, p. 156, § 19.)

**79.** All life insurance companies organized by act of Congress, or under the laws of any other State of the United States, doing business in this State, shall annually file a statement of its condition and affairs in the office of the Superintendent of Insurance, at the same time and in the same form and manner required of similar companies organized under the laws of this State, except as to requirements of statement by item 14, in section seventeen (17) of this chapter, which schedule shall be required of said companies only when required by the Superintendent of Insurance for purpose of actual valuation, as provided by the laws of this State. (*Ibid*, p. 157, § 20.)

**80.** If the said annual statement shall be satisfactory evidence to the Superintendent of Insurance of the solvency and ability of the said company to meet all its engagements at maturity, and that the said deposit is maintained as above required and provided, he shall issue renewal certificates of authority to the agents of said company, certified copies of which shall be filed in the County Recorder's office of the county where the agency is located, and which renewal certificates shall be the authority of such agents to issue new policies in this State for the ensuing year. (*Ibid*, § 21.)

**81.** It shall not be lawful for any person to act in this State as agent or otherwise, in receiving or procuring applications for life insurance, or in any manner to aid in transacting the business of any life insurance company, partnership or association, incorporated by or organized under the laws of any foreign government, until such company, partnership or association shall have deposited with the Superintendent of Insurance, for the benefit of the policy-holders of said company, partnership or association, citizens or residents of the

United States, securities to the amount of one hundred thousand dollars of the kind required, or which may hereafter be required, for similar companies of this State, and shall have appointed an agent or attorney in each county in this State in which the company has established an agency, on whom process of law can be served, and the said company, partnership or association shall have filed with the Superintendent of Insurance a duly certified copy of the charter or deed of settlement of the said company, partnership or association, and also a duplicate original copy of the letter or power or attorney of such company or association appointing the attorney thereof, which appointment shall continue until another attorney be substituted. (*Ibid*, § 22.)

**82.** In case any such insurance corporation shall cease to transact business in this State according to the laws thereof, the agent last designated, or acting as such for such corporation, shall be deemed to continue agents for such corporation, for the purpose of serving process, for commencing actions upon any policy or liability issued or contracted while such corporation transacted business in this State; and service of such process, for the causes aforesaid, upon any such agent, shall be deemed a valid service upon such corporation. (*Ibid*, p. 158 § 23.)

**83.** Such company, partnership or association shall also file a statement of its condition and affairs in the office of the Superintendent of Insurance, in the same form and manner required for the annual statements of similar companies organized under the laws of this State; and such company, partnership or association shall, annually, on the first day of January, or within sixty days thereafter, file with the Superintendent of Insurance a statement of all its affairs, in the same manner and form required of similar companies in this State, except as to requirements of schedule of item 14 of section seventeen (17) of this act, which schedule shall be required of said companies only when required by the Superintendent for purposes of actual valuation, as provided by the laws of this State. (*Ibid*, § 24.)

**84.** Said statement shall be accompanied also by a supplementary annual statement, duly verified by the attorney or general agent of the company or association in this State, giving a detailed description of the policies issued and those which have ceased to be in force during the year, the amount of premiums received, and claims and taxes paid in this State and the United States for the year ending on the thirty-first day of December. (*Ibid*, § 25.)

**85.** Said supplementary statement shall also contain a description of the investments of such company or association in this country, and such other information as may be required by said Superintendent of Insurance; and if the said annual statement shall be satisfactory evidence to the said Superintendent of the solvency and ability of the said company to meet all its engagements at maturity, he shall issue renewal certificates of authority to the agents of said company, partnership or association, certified copies of which shall be filed by such agents in the County Recorder's office of the county where the agency is located, and which renewal certificates shall be the authority of such agents to issue new policies in this State for the ensuing year. (*Ibid*, § 26.)

**86.** It shall not be lawful for any person, company or corporation, directly or indirectly, to act as agent for any life insurance company, partnership or association, organized under the laws of any foreign government, either in procuring application for insur-



ance, taking risks, or in any manner aiding in the transaction of the business of life insurance in this State, without procuring from the said Superintendent a certificate of authority (which shall be renewable annually), stating that the foregoing requirements have been complied with, and setting forth the name of the attorney for such company, a certified copy of which certificate shall be filed in the County Recorder's office of the county where the agency is to be established, and which shall be the authority of such company and agent to do business in this State. (*Ibid*, § 27.)

**87.** In case of neglect or refusal to make such annual statements as aforesaid, all persons acting in this State as agents or otherwise, in transacting the business of insurance for said companies, corporations, associations, partnerships, or individuals, shall be subject to the same penalties provided by law in case of the failure of an insurance company organized under the laws of this State to make an annual statement, as now provided by law. (*Ibid*, p. 159, § 28.)

**88.** All life insurance companies organized under any law of this State shall continue corporations for the purpose for which they were chartered, but subject to all the provisions, requirements, and penalties imposed on companies organized under this chapter, and entitled to all the benefits and privileges of this chapter. (*Ibid*, § 29.)

**89.** Any medical examiner for any life insurance company, or for any person seeking insurance therein, who shall knowingly make any false statement or report to such company or any officer thereof concerning the health or bodily condition of any applicant for insurance, or concerning any other matter or thing which might affect the propriety of granting such insurance, shall be deemed guilty of a misdemeanor, and, on conviction thereof, be fined in any sum not exceeding five hundred dollars, or be imprisoned in the county jail not exceeding three months, at the discretion of the court, and shall, moreover, be liable to the company injured for any damages sustained by reason thereof. (*Ibid*, § 31.)

**90.** All life insurance companies, after having received at least three annual premiums on any policy issued on the life of any person in the State, are hereby estopped from defending against any claim arising upon such policy by reason of any errors, omissions or misstatements of the assured in any application made by such assured on which such policy was issued, except as to age or fraud. (*Ibid*, p. 160, § 32.)

**91.** The act entitled "An act for the incorporation and regulation of life insurance companies," passed April 16, 1867; an act entitled "An act supplementary to an act entitled 'An act for the incorporation and regulation of life insurance companies,'" passed May 8, 1868; an act to regulate insurance companies, passed April 15, 1867; and an act amendatory and supplementary thereto, passed May 7, 1869; and an act to amend section twenty-four of an act to regulate insurance companies, passed May 15, 1868, be and the same are hereby repealed; but all charters obtained under any of the acts hereby repealed, and all rights of action and of property acquired by any company under any of the acts hereby repealed, shall be retained as fully as if said act or acts had not been repealed, subject, however, to the provisions of this act. (*Ibid*, § 33.)



## TAXATION OF INSURANCE COMPANIES.

**92.** The president, secretary, or principal accounting officer of every insurance company, whether incorporated by any law of this State or not, shall list for taxation, verified by the oath or affirmation of the person so listing, all the personal property, moneys and credits of such company or corporation, within this State, at their actual value in money, in manner following:

In all cases return shall be made to the several auditors of the respective counties where such property may be situated, together with a statement of the amount of said property which is situated in each township, incorporated village, city or ward therein. The value of all movable property shall be added to the stationary and fixed property and real estate, and apportioned to such wards, cities, incorporated villages or townships, *pro rata*, in proportion to the value of the real estate and fixed property in said ward, city, incorporated village, or township. And all property so listed shall be subject to and pay the same taxes as other property listed in such ward, city, or incorporated village or township. It shall be the duty of the accounting officer aforesaid to make return to the Auditor of State during the month of May of each year, the aggregate amount of all property by him returned, as required by the provisions of this act, to the several auditors of the respective counties in which the same may be located.

If the County Auditor to whom returns are made is of the opinion that false or incorrect valuations have been made, or that the property of the corporation or association has not been listed at its full value, or that it has not been listed in the location where it properly belongs, or in cases where no return has been made to the County Auditor, he is hereby required to proceed to have the same valued and assessed in the same manner as is prescribed in the several sections of this act, regulating the duties of county auditors; *Provided*, That nothing in this section shall be so construed as to tax any stock or interest in any joint stock company held by the State of Ohio; *Provided*, That every agency of an insurance company, incorporated by the authority of any other State or government, shall return to the Auditor of the county in which the office or agency of such company may be kept, in the month of May, annually, the amount of the gross receipts of such agency, which shall be entered upon the tax list of the proper county, and subject to the same rate of taxation for all purposes that other personal property is subject to at the place where located. (*Revised Statutes, 1860, Swan & Critchfield, vol. 2, p. 1446.*)

## LIFE INSURANCE FOR THE BENEFIT OF MARRIED WOMEN AND CHILDREN.

**93.** It shall be lawful for any married woman, by herself, and in her own name, or in the name of any third person, with his assent as her trustee, to cause to be insured for her sole use the life of her husband, for any definite period, or for the term of his natural life; and in case of her surviving such period or term, the amount of the insurance becoming due and payable by the terms of the insurance shall be payable to her, to and for her own use, free

from the claims of the representatives of the husband or of any of his creditors; and a policy of insurance on the life of any person, duly assigned, transferred or made payable to any married woman, or to any person in trust for her or for her benefit, whether such transfer be made by her husband or other person, shall inure to her separate use and benefit, and that of her children, independently of her husband or their creditors, or of the person effecting or transferring the same, or his creditors. The amount of such insurance may be made payable in case of the death of the wife before the period at which it becomes due, to his, her, or their children, for their use, as shall be provided in the policy of insurance, and to their guardian if under age; *Provided, however,* That if such policies are procured by any person with intent to defraud his creditors, an amount equal to the premium paid on such policy or policies, with interest, shall inure to the benefit of said creditors, subject, however, to the statute of limitations. (*Laws of 1872, p. 159, § 30.*)

### ARSON AND INCENDIARISM.

**94.** If any person shall willfully and maliciously burn, or cause to be burned, any dwelling-house, kitchen, smoke-house, shop, barn, stable, storehouse, warehouse, malt-house, stilling-house, mill, or pottery, the property of any other person, or any other building, the property of any other person, of the value of fifty dollars, or containing property of the value of fifty dollars; or any church, meeting-house, court-house, work-house, school-house, jail, or other public building; or any ship, boat, or other water craft of the value of fifty dollars; or any bridge of the value of fifty dollars erected across any of the waters within this State; every person so offending shall be deemed guilty of arson, and, upon conviction thereof, shall be imprisoned in the penitentiary, and kept at hard labor not more than twenty years, nor less than one year. (*Revised Statutes, S. & C., 1860, p. 406, § 12.*)

**95.** If any person shall willfully, maliciously, and unlawfully attempt to burn, or cause to be burned, any dwelling-house, kitchen, smoke-house, shop, barn, stable, storehouse, warehouse, malt-house, stilling-house, mill, or pottery, the property of any other person, of the value of fifty dollars; or any church, meeting-house, court-house, work-house, school-house, jail, or other public building; or any ship, boat, or other water craft of the value of fifty dollars; or any bridge of the value of fifty dollars erected across any of the waters within this State; or if any person shall willfully, maliciously, or unlawfully attempt to set fire to any of the buildings or other property described herein, with intent to burn or destroy the same, by igniting or trying to set fire to or ignite the same, or any material or thing therein, or any combustible material or thing without the same and nearly adjoining thereto, though the same, or part thereof, be not fired or burned, every person so offending shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in any sum not exceeding three hundred dollars, or imprisonment in the county jail, and fed on bread and water only, for a term not exceeding four months, or both, at the discretion of the court. (*Revised Statutes, 1868, S. & S., p. 267, § 19.*)

**96.** Every person who shall willfully and maliciously burn or cause to be burned, any dwelling-house, kitchen, smoke-house,

shop, office, barn, stable, storehouse, warehouse, still-house, mill, pottery, or any other building of the value of fifty dollars; or any ship, boat, or other water craft of the value of fifty dollars; or any goods, wares, merchandise, or other chattels of the value of fifty dollars, which shall be at the same time the property of such person, and insured against loss or damage by fire, with intent to prejudice such insurer, every person so offending shall be deemed guilty of arson, and, upon conviction thereof, shall be imprisoned in the penitentiary, and kept at hard labor not more than twenty years, nor less than one year. (*Revised Statutes*, 1860, S. & C., p. 457a, § 240.)

**97.** If any person shall willfully and maliciously set fire to any of the buildings, water craft or other property described in the foregoing section, and which shall be at the same time the property of such person, and insured against loss or damage by fire, with intent to burn or destroy the same, and with intent to prejudice such insurer, every person so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be imprisoned in the penitentiary, and kept at hard labor not more than seven years, nor less than one year. (*Ibid*, p. 457b, § 241.)

### EMBEZZLEMENT.

**98.** If any clerk, agent or servant of any private person, or of any copartnership (except apprentices and persons within the age of eighteen years), or if any officer, agent, clerk or servant of any incorporated company or joint-stock company, shall embezzle or convert to his own use, or fraudulently take or make away with or secrete with intent to embezzle, or fraudulently convert to his own use without the assent of his or her employer or employers or the owner or owners thereof any money, goods, rights in action or other valuable security or effects whatever belonging to any other person or persons, body politic or corporate, which shall come into his or her possession or care by virtue of such employment, shall upon conviction, be punished in the manner prescribed by law for feloniously stealing property of the value of the article so embezzled, taken or secreted, or of the value of any sum of money payable and due upon any right in action so embezzled. (*Laws of 1869*, p. 29.)

**99.** For General Provisions relating to Corporations see *Revised Statutes*, 1860, S. and C., pp. 271, 309, 310, 317, 318; *Revised Statutes*, 1868, S. and S., pp. 243-247; *Laws of 1869*, pp. 94, 344; *Laws of 1874*, pp. 26, 27 *Laws of 1875*, pp. 24, 37, 38, 139.

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# INSURANCE STATUTES OF OREGON.

## CONSTITUTIONAL PROVISIONS CONCERNING CORPORATIONS.

**1.** Corporations may be formed under general laws, but shall not be created by special laws except for municipal purposes. All laws passed pursuant to this section may be altered, amended, or repealed, but not so as to impair or destroy any vested corporate rights. (*Art. 9, § 2.*)

**2.** The stockholders of all corporations and joint-stock companies shall be liable for the indebtedness of said corporation to the amount of their stock subscribed and unpaid, and no more. (*Ibid, § 3.*)

## FOREIGN INSURANCE COMPANIES.

**3.** No foreign corporation or association shall be permitted to transact the business of fire or marine insurance, brokerage or express, within the limits of this State, without first complying with the provisions of section two of the act to regulate and tax foreign corporations, approved October 21, 1864; [**4.**] and every person acting, or professing to act as agent for such foreign corporation or association, before such compliance, shall be guilty of a misdemeanor, and on conviction, shall be punished by a fine not exceeding one thousand dollars, or imprisonment in the county jail not exceeding one year, or both, at the discretion of the court. (*General Laws, 1872, p. 447, § 725.*)

**4.** Every such corporation before engaging in the business of fire or marine insurance, or express or brokerage, shall deposit with the Treasurer of this State the sum of fifty thousand dollars, as hereinafter provided. (*Ibid, p. 16, § 1.*)

**5.** Such deposit shall be made in interest-bearing bonds of the United States or the bonds of the State of Oregon, and shall be safely kept for the benefit and security of persons transacting business with such corporations or associations in this State, for claims and demands arising out of said business, and shall be held and considered specially pledged for such security for such claims and demands. (*Ibid, § 2.*)

**6.** The corporation or association shall pay taxes upon such deposit, within the county where deposited, in the same manner and to the same extent, as an individual, and the deposit shall be held liable therefor. All interest accruing from the United States on said bonds, shall be paid as the same may accrue, to the corporation or association to whom the same belong. (*Ibid, § 3.*)

**7.** When any corporation or association, having made such deposit, shall desire to cease business in this State and withdraw its capital, it may do so by first giving six month's public notice of such intention, by continuous publication in three weekly newspapers,

published in and of general circulation in the State, and if no claims shall be filed against such corporation within said six months, the deposit may be withdrawn. (*Ibid*, § 4.)

8. All residents of this State, having outstanding policies of insurance made or effected within this State, upon property, and all persons, having claims or demands against such corporations or associations for which such deposit is security, may file the same with said County Treasurer, prior to the time when such deposit is withdrawn, as in the preceding section is provided; and such deposit shall not be withdrawn until such policies of insurance are provided for, and such claims adjusted and settled, without leaving a sufficient amount to cover the same in the hands of such Treasurer. (*Ibid*, p. 617, § 5.)

9. The corporation or association, desirous of discontinuing business, and withdrawing its deposit, may, at the expiration of the period required for publishing its notice, as in section five provided, in case it cannot amicably adjust its matters, with persons having or holding policies of insurance against it, petition the Circuit Court of the county, for an adjustment of the same, making the claimants parties, and the court shall have full jurisdiction to examine and determine the same, as in proceedings in equity. (*Ibid*, § 6.)

10. A foreign corporation, before transacting business in this State, must duly execute and acknowledge a power of attorney, and cause the same to be recorded in the County Clerk's office, of each county where it has a resident agent, which power of attorney, so long as such company shall have places of business in the State, shall be irrevocable, except by the substitution of another qualified person for the one mentioned therein, as attorney for such company. (*Ibid*, § 7.)

11. Such power of attorney shall appoint some person who is a citizen of the United States, and a citizen and resident of this State, an attorney for such company, and shall authorize and empower such attorney to accept service of all writs and process, requisite and necessary to give complete jurisdiction of such corporation to any of the courts of this State, or United States courts therein, and shall constitute such attorney the authorized agent of such corporation, upon whom lawful and valid service may be made of all writs and process in any action, suit, or proceeding commenced by or against any such corporation, in any of the courts mentioned in this section, and necessary to give such courts complete jurisdiction thereof. (*Ibid*, § 8.)

12. A corporation or company offering to file a certificate of deposit with the State Treasurer, shall pay such Treasurer a fee of ten dollars therefor, and all expenses of printing any notice required by this chapter, shall be paid by the company concerning which such notice is published. (*Ibid*, § 9.)

13. Each County Treasurer shall be entitled to receive and retain three per centum of all moneys received by him under this chapter, and each County Clerk shall be entitled to demand and receive from the person applying for such license, the sum of two dollars for issuing the same. (*Ibid*, p. 618, § 11.)

14. All companies having agents or solicitors doing business within the State as life insurance agents or solicitors, shall pay to the Treasurer of this State the sum of one hundred dollars annually, in gold coin of the United States of America. (*Ibid*, § 15.)

15. The Secretary of State shall procure and cause to be

printed stamps as hereinafter provided, and it shall be unlawful for any fire or marine insurance company to transact business within this State unless they shall affix such stamps to each and every policy of insurance, as hereinafter provided, to wit :

For every one on which the premium is less than ten dollars, a stamp of the value of ten cents ;

Over ten dollars and less than twenty dollars, a stamp worth twenty cents ;

Over twenty dollars and less than fifty dollars, a stamp worth fifty cents ;

Over fifty dollars and less than one hundred dollars, a stamp worth one dollar ;

And an additional one per centum on all sums over one hundred dollars.

Said stamps shall be affixed and canceled at the time of delivering said policy, by the secretary or actuary of the company by whom such insurance is effected. (*Ibid*, § 16.)

**16.** The fees of the State Treasurer for carrying out such portion of the provisions of this chapter, as shall pertain to his office shall be as follows :

For keeping such deposits and for returning to depositors the coupons on all bonds deposited by them, one-eighth of one per centum per annum on all amounts so deposited in his charge. (*Ibid*, p. 629, § 17.)

**17.** The fees of the Secretary of State for carrying out such portions of this chapter as pertain to the duties of his office, shall be as follows :

For recording each certificate of deposit and issuing such certificate to depositors, twenty-five dollars ;

For issuing license to life insurance agents or solicitors, annually, ten dollars ;

From commission on the sale of stamps, as provided in section 16 of this chapter, five per centum of the amount sold. (*Ibid*, § 18.)

## ARSON AND INCENDIARISM.

**18.** If any person shall willfully and maliciously burn in the night-time, any dwelling-house of another, or shall in the night-time, willfully or maliciously set fire to any building owned by himself or another, by the burning whereof, any dwelling-house of another shall be burned in the night-time, such person shall be deemed guilty of arson and upon conviction thereof, shall be punished by imprisonment in the penitentiary not less than ten, nor more than twenty years. (*General laws*, 1872, p. 411, § 540.)

**19.** If any person shall willfully and maliciously burn, in the night-time, any church, court-house, town-house, meeting-house, asylum, college, academy, school-house, prison, jail or other public building erected or used for public uses, or any steamboat, ship or other vessel, or any banking-house, warehouse, express-office, store-house, manufactory, mill, barn, stable, shop or office of another, or shall willfully or maliciously set fire to any building or boat owned by himself or another, by the burning whereof any edifice, building, boat or vessel mentioned in this section, shall be burned in the night-time, such person shall be deemed guilty of arson, and upon conviction thereof, shall be punished by imprisonment in the

penitentiary not less than five nor more than fifteen years. (*Ibid*, § 541.)

**20.** If any person shall, in the day-time, willfully and maliciously commit any of the acts specified in sections 540 and 541, and thereby declared to be arson, such person shall be deemed guilty of arson, and upon conviction thereof, shall be punished by imprisonment in the penitentiary, not less than three, nor more than ten years. (*Ibid*, p. 412, § 542.)

**21.** If any person shall willfully and maliciously burn any building whatsoever of another, other than those specified in sections 540 and 541, or shall willfully and maliciously burn any bridge, lock, dam or flume of another, or erected or used for public uses, such person, upon conviction thereof, shall be punished by imprisonment in the penitentiary, not less than one, nor more than ten years. (*Ibid*, § 543.)

**22.** If any person shall willfully burn or in any other manner injure or destroy any property whatever, which is at the time insured against loss or damage by fire or other casualty, with intent to defraud or prejudice the insurer, whether the same be the property of such person or of any other, such person upon conviction thereof, shall be punished by imprisonment in the penitentiary, not less than three, nor more than seven years. (*Ibid*, § 546.)

### EMBEZZLEMENTS.

**23.** If any officer, clerk, employee or servant, of any private person or persons, co-partnership or incorporation, shall embezzle or fraudulently convert to his own use, or shall take or secrete, with intent to embezzle, or fraudulently convert to his own use, any money, property or thing of another, which may be the subject of larceny, and which shall have come into his possession, or be under his care, by virtue of such employment, such officer, agent, clerk, employee or servant shall be deemed guilty of larceny, and upon conviction thereof, shall be punished accordingly. (*General laws*, 1872, p. 414, § 557.)

**24.** For General Provisions relating to Corporations see General Laws, 1872, pp. 524-529.



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# INSURANCE STATUTES OF PENNSYLVANIA.

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## CONSTITUTIONAL PROVISIONS CONCERNING CORPORATIONS.

1. The General Assembly shall not pass any local or special law creating corporations, or amending, renewing or extending the charters thereof, granting to any corporation, association or individual any special or exclusive privilege or immunity. (*Art. 3, § 7.*)

2. The power to tax corporations and corporate property shall not be surrendered or suspended by any contract or grant to which the State shall be a party. (*Art. 9, § 3.*)

3. The General Assembly shall not remit the forfeiture of the charter of any corporation now existing, or alter or amend the same, or pass any other general or special law for the benefit of such corporation, except upon the condition that such corporation shall thereafter hold its charter subject to the provisions of this Constitution. (*Art. 16, § 2.*)

4. The exercise of the right of eminent domain, shall never be abridged or so construed as to prevent the General Assembly from taking the property and franchises of incorporated companies, and subjecting them to public use, the same as the property of individuals; and the exercise of the police power of the State shall never be abridged or so construed as to permit corporations to conduct their business in such manner as to infringe the equal rights of individuals or the general well-being of the State. (*Art. 16, § 3.*)

5. In all elections for directors or managers of a corporation, each member or shareholder may cast the whole number of his votes for one candidate, or distribute them upon two or more candidates, as he may prefer. (*Ibid, § 4.*)

6. No foreign corporation shall do any business in this State without having one or more known places of business and an authorized agent or agents in the same, upon whom process may be served. (*Ibid, § 5.*)

7. No corporation shall engage in any business other than that expressly authorized in its charter, nor shall it take or hold any real estate except such as may be necessary and proper for its legitimate business. (*Ibid, § 6.*)

8. The General Assembly shall have the power to alter, revoke, or annul any charter of incorporation now existing, and revocable at the adoption of this Constitution, or any that hereafter may be created, whenever in their opinion it may be injurious to the citizens of this commonwealth, in such manner, however, that no injustice shall be done to the corporators. No law hereafter enacted shall create, renew, or extend the charter of more than one corporation. (*Ibid, § 10.*)

## INSURANCE DEPARTMENT.

9. There is hereby established a distinct department, to be known as the Insurance Department, which shall be charged with

the execution of the laws of this State in relation to insurance. (*Laws of 1873, p. 20, § 1.*)

**10.** The chief officer of said department shall be denominated the Insurance Commissioner of Pennsylvania; he shall be appointed by the Governor, with the advice and consent of the Senate, within thirty days after the passage of this act, for the term of three years, and until his successor is duly qualified, and shall receive the annual salary of three thousand dollars; *Provided*, That the person first appointed Commissioner under this act shall enter upon the duties of his office on the first Monday of May next; in case of a vacancy in said office by death, resignation, or otherwise, the Governor shall fill such vacancy for the unexpired balance of the term; he shall employ, from time to time, with the approval of the Governor, not exceeding, in addition to deputy, three clerks, to discharge such duties as he shall assign them, whose compensation shall be paid them by the State Treasurer at the same rate and in the same manner as the clerks in the office of the Secretary of the Commonwealth; he shall appoint one of the said clerks to be his deputy, who shall perform the duties attached by law to the office of principal during the absence or inability of his principal, who shall receive an annual salary of eighteen hundred dollars, payable as aforesaid; within fifteen days from the date of his appointment, the Commissioner shall take and subscribe the oath of office prescribed by the constitution, and file the same in the office of the Secretary of the Commonwealth, and shall also give to the commonwealth a bond in the penalty of ten thousand dollars, with two sureties, to be approved by the Governor, conditioned for the faithful discharge of the duties of his office. (*Ibid, § 2.*)

**11.** All books, papers, records, and securities whatever, in the office of the Auditor-General, relating to the business of insurance, shall, on demand, be delivered and transferred to the Insurance Commissioner, and be and remain in his charge and custody. (*Ibid, p. 21, § 3.*)

**12.** There shall be assigned to the said Commissioner, by the Commissioners of Public Buildings and Grounds, a suitable room or rooms for conducting the business of said department; and the said Commissioner shall, from time to time, with the approval of the Commissioner aforesaid, procure the necessary furniture, stationery, and other proper conveniences for the transaction of the said business, the expenses of which shall be paid on the certificate of the Commissioner and the warrant of the Auditor-General. (*Ibid, § 4.*)

**13.** It shall be the duty of the Insurance Commissioner

*First.*—To see that all the laws of this State respecting insurance companies, and the agents thereof, are faithfully executed, and for this purpose he is hereby invested with all the powers now conferred by law upon the Auditor-General in relation to the licensing of the agents of foreign insurance companies; to file in his office any charter of a company now or hereafter required by law to be filed, and upon application to furnish a certified copy thereof.

**14.** *Second.*—He shall, as soon as practicable, in each year, calculate, or cause to be calculated, the net value on the thirty-first day of December, of the previous year, of all the policies in force on that day in each life insurance company doing business in this State, organized by authority of this State, and of every other life insurance company doing business in this State that shall fail to furnish him, as hereinafter provided, a certificate of the Insurance



Commissioner of the State by whose authority the company was organized, or by the State in which it may elect to have its policies valued and its deposit made, in case the company is chartered by the government of the United States, giving the net value of all policies in force in the company on the thirty-first day of December in the preceding year, which calculation of the net value of each policy shall be based upon the American experience table of mortality and four and one-half per cent. interest per annum; *Provided*, That when any life insurance company shall have a cash capital of not less than five hundred thousand dollars, fully paid in and safely invested, the reserve to provide for the liabilities on all policies of such company not participating in the profits of the company shall be computed by the American Experience Table of Mortality, with interest at not less than four and one-half nor more than six per centum per annum, in the discretion of the Commissioner, and with reference to the rates of premium charged by such company; the net value of a policy, at any time, shall be taken to be the single net premium, which will, at that time, effect the insurance, less the value at that time of the future net premiums called for by the table of mortality and rate of interest designated.

**15. Third.**—In case it is found that any life insurance company doing business in this State has not on hand the net value of all its policies in force, after all other debts of the company and claims against it, exclusive of capital stock, have been provided for, it shall be the duty of the Insurance Commissioner to publish the fact that the then existing condition of the affairs of the company is below the standard of legal safety established by this State, and he shall require the company at once to cease doing new business, and he shall immediately institute proceedings to determine what further shall be done in the case; and it is hereby made the duty of the Insurance Commissioner, after having determined as above the amount of the net value of all the policies in force, to see that the company has that amount in safe legal securities, after all its other debts and claims against it, exclusive of capital stock, have been provided for.

**16. Fourth.**—He shall accept the valuations made by the Insurance Commissioner of the State, under whose authority a life insurance company was organized, when such valuations have been properly made on sound and recognized principles and legal basis as above; *Provided*, The company shall furnish to the Insurance Commissioner of this State, on or before the first day of March in each and every year, a certificate from the Insurance Commissioner of such State, setting forth the value, calculated on the data designated above, of all the policies in force in the company on the previous thirty-first day of December, and stating that after all the other debts of the company and claims against it at that time were provided for the company had, in safe securities, an amount equal to the net value of all its policies in force, and that said company is entitled to do business in its own State; and every life insurance company doing business in the State during the year for which the statement is made, that fails promptly to furnish the certificate aforesaid, shall be required to make full detailed lists of policies and securities to the Insurance Commissioner of this State, and shall be liable for all charges and expenses consequent upon not having furnished said certificate.

**17. Fifth.**—For every company doing fire insurance business in

this State, he shall calculate the reinsurance reserve for unexpired fire risks, by taking fifty per centum of the premiums received on all unexpired risks that have less than one year to run, and a *pro rata* on all premiums received on risks that have more than one year to run; and in marine and inland insurance he shall charge all the premiums received on unexpired risks as a reinsurance reserve.

**18. Sixth.**—Having charged against a company the reinsurance reserve as above determined, for fire, inland, and marine insurance, and adding thereto all other debts and claims against the company, he shall, in case he finds the capital stock of the company impaired to the extent of twenty per centum, give notice to the company to make good its whole capital stock within sixty days; and if this is not done, he shall require the company to cease to do new business within this State, and shall thereupon, in case the company is organized under authority of this State, immediately institute legal proceedings as required in this act, to determine what further shall be done in this case. Any company receiving the aforesaid notice of the Insurance Commissioner to make good its whole capital stock within sixty days, shall forthwith call upon its stockholders for such amounts as will make its capital equal to the amount fixed by the charter of said company; and in case any stockholder of such company shall neglect or refuse to pay the amount so called for, after notice personally given or by advertisement in such time and manner as the said Commissioner shall approve, it shall be lawful for the said company to require the return of the original certificate of stock held by such stockholder, and in lieu thereof to issue new certificates for such number of shares as the said stockholder may be entitled to in the proportion that the ascertained value of the funds of the said company may be found to bear to the original capital of the said company; the value of such shares for which new certificates shall be issued to be ascertained under the direction of the said Commissioner, and the company paying for the fractional parts of shares; and it shall be lawful for the directors of such company to create new stock and dispose of the same, and to issue new certificates therefor to any amount sufficient to make up the original capital of the company. Whenever the capital stock of any joint stock fire or marine insurance company of this State becomes impaired, the Commissioner may, in his discretion, permit the said company to reduce its capital stock and the par value of its shares in proportion to the extent of impairment; *Provided*, That in fixing such reduced capital no sum exceeding twenty-five thousand dollars shall be deducted from the assets and property on hand, which shall be retained as surplus assets; and *Provided*, That no part of such assets and property shall be distributed to the stockholders; and *Provided*, further, That the capital stock shall not be reduced to an amount less than that required by law for the organization of the company.

**19. Seventh.**—It shall be the duty of the Insurance Commissioner after he has notified a life insurance company, organized under authority of this State, to cease doing new business until the net value of its policies in force is equal to that called for by the standard of safety established by the State, at once to cause a rigid examination in regard to all the affairs of such company; in case it shall appear that there is no fraud or gross incompetency or recklessness shown to exist in the management, he may, upon publishing the facts in the case, permit such company to continue in charge.

of its business for one year; *Provided*, There is, in his opinion, reason to believe that the company may eventually be able to re-establish the legal net value of its policies in force. At the end of the year named above, he may renew the permission, in case, on examination, he is satisfied that the company is likely to retrieve its affairs.

**20. Eighth.**—Whenever the Insurance Commissioner shall have reason to believe that any insurance company of this State is insolvent or fraudulently conducted, or that its assets are not sufficient for carrying on the business of the same, or during any non-compliance with the provisions of this act, he shall communicate the fact to the Attorney-General, whose duty it shall then become to apply to the Supreme Court, or the district court, or any court of common pleas in this commonwealth, or in vacation to any of the judges thereof, for an order requiring said company to show cause why their business should not be closed; and the court or judge, as the case may be, shall thereupon hear the allegations and proofs of the respective parties, or appoint some suitable person as examiner to perform such duty and report upon the facts to said court or judge; if it appears to the satisfaction of said court or judge that such company is insolvent, or that the interests of the public so require, the said court or judge shall decree a dissolution of such corporation and a distribution of its effects; but in case it shall appear to said court or judge that said corporation is able to comply with the provisions of this act, and that it is not insolvent, a decree shall be entered annulling the act of the Commissioner in the premises, and authorizing such company to resume business.

**21. Ninth.**—The Insurance Commissioner shall publish the result of his examination of the affairs of any company, whenever he deems it for the interest of the public so to do, in one or more publications of this State; suspend the entire business of any company of this State, and the business within this State of any other company, during its non-compliance with any provisions of this act, or whenever its assets appear to him insufficient to justify its continuance in business, by suspending or revoking the certificate granted by him; report to the Attorney-General any violation of the law relative to insurance companies, their officers or agents; furnish to the companies the necessary blank forms for the statements required; preserve in a permanent form a full record of his proceedings and concise statement of the condition of each company or agency visited or examined; at the request of any person, and on payment of the fee to give certified copies of any record in his office, when he deems it not prejudicial to the public interest; report annually to the legislature the receipts and expenses of his department for the year, his official acts, the condition of companies doing business in this State, and such other information as will exhibit the affairs of his department; adopt and renew from time to time, with the approval of the Governor, a seal of office, an impression of which shall be filed in the office of the Secretary of the Commonwealth; and it shall be his duty to see that no company is permitted to enter into new contract to insure lives in this State, who continue to do fire, marine and inland insurance business.

**22. Tenth.**—The Insurance Commissioner, for the purpose of examination authorized by this act, is hereby empowered, either in person or by one or more examiners by him commissioned in writing, to require free access to all books and papers within this State



of any insurance company, or the agents thereof, doing business within this State; to summon and examine any person being within this State, under oath, which he or any examiner may administer, relative to the affairs and condition of any company; for probable cause to visit at its principal office, wherever it may be, any insurance company not of a State in which the substantial provisions of this act shall be enacted, and doing business in this State, for the purpose of investigating its affairs and condition, and to revoke its certificate in this State granted as hereinafter described, if it does not permit an examination; to revoke or modify any certificate of authority, when any conditions prescribed by law for granting it no longer exist. The Insurance Commissioner is hereby empowered to institute suits and prosecutions, either by the Attorney-General or such other attorney as the Commissioner may designate, for any violation of this act; and the Commissioner shall be made a party to any proceedings instituted for the purpose of closing up the affairs of any company, when the same shall not be in the name of the commonwealth. (*Ibid*, § 5.)

**23.** The Commissioner may employ an actuary to make the valuation of life policies, at the compensation of not exceeding three cents for each thousand dollars of insurance, to be paid by the company for which the valuation is made; and there shall be paid by every company to which this act applies, the following fees towards defraying the expenses of enforcing its provisions: For filing certified copy of charter, twenty-five dollars; for filing the annual statement or certificate in lieu thereof, twenty dollars; for each certificate of authority and certified copy thereof, two dollars; for every copy of any paper filed in the Department, the sum of twenty cents per folio, and for affixing the official seal to such copy and certifying the same, one dollar; for official examinations of companies under this act, the actual expenses incurred. (*Ibid*, p. 25, § 6.)

**24.** The Insurance Commissioner shall, on or before the tenth day of each month, make report to the Auditor-General, showing the entire amount of fees received by him during the month preceding, and pay over the same to the State Treasurer; and in case the necessary expenses of said Department exceed the amount of fees collected under this act, exclusive of the tax upon premiums, the excess of such expense shall be annually assessed by the Commissioner, in just proportion, upon all the insurance companies doing business in this State, and the Commissioner is empowered to collect such assessments and pay the same into the State Treasury; and all the necessary expenses of the Commissioner in the execution of this act shall be paid by the State Treasurer upon his certificate and the warrant of Auditor-General, out of the fund thus created. (*Ibid*, § 7.)

**25.** Within ninety days after the first Monday of May next, it shall be the duty of every insurance company of this State to file with the Commissioner a certified copy of its charter, together with a certificate, stating the time of its organization, the location of its principal place of business and the names and residence of its officers; and the Commissioner shall proceed, as soon as practicable thereafter, to institute an examination into its affairs, in accordance with the provisions of this act; and any company failing to comply with the requirements of this section, shall be subject to a fine of one hundred dollars for each month's delay, to be collected as other fines and penalties under this act. (*Ibid*, § 8.)



**26.** It shall be unlawful for any person, company or corporation, to negotiate or solicit within this State any contract of insurance, or to effect an insurance or insurances, or pretend to effect the same, or to receive or transmit any offer or offers of insurance, or receive or deliver a policy or policies of insurance, or in any manner to aid in the transaction of the business of insurance without complying fully with the provisions of this act. (*Ibid*, p. 26, § 9.)

**27.** No person shall act as agent or solicitor in this State of any insurance company of another State, or foreign government, in any manner whatever relating to risks, until the provisions of this act have been complied with on the part of the company or association, and there has been granted to said company or association, by the Commissioner, a certificate of authority, showing that the company or association is authorized to transact business in this State; and it shall be the duty of every such company or association, authorized to transact business in this State, to make report to the Commissioner in the month of January of each year, under oath of the president or secretary thereof, showing the entire amount of premiums of every character and description received by said company or association in this State, during the year or fraction of a year ending with the thirty-first day of December preceding, whether said premiums were received in money or in the form of notes, credits, or any other substitute for money, and pay into the State Treasury a tax of three per centum upon said premiums; and the Commissioner shall not have power to grant a renewal of the certificate of said company or association until the tax aforesaid is paid into the State Treasury. (*Ibid*, § 10.)

**28.** Companies to which certificates of authority are issued, as provided in the preceding section, shall, from time to time, certify to the Commissioner the names of the agents appointed by them to solicit risks in this State; and no such agent shall transact business until he has procured from the Commissioner a certificate, showing that the company has complied with the requirements of this act, and that the person named in said certificate has been duly appointed its agent. (*Ibid*, § 11.)

**29.** Every insurance company, including individuals, partnerships, joint-stock associations and corporations conducting any branch of insurance business in this State, must transmit to the Insurance Commissioner a statement of its condition and business, for the year ending on the preceding thirty-first day of December, which statement shall be rendered on the first day of January following, or within sixty days thereafter, except that foreign companies shall transmit their statement of business, other than that done in the United States, prior to the following first day of July, which statements must be in form, and state the particulars required by the blanks prescribed by the Commissioner; and the Insurance Commissioner may require, at any time, statements from any company doing business within this State, or from any of its officers or agents, on such points as he deems necessary and proper to elicit a full exhibit of its business and standing, all of which statements herein required must be verified by the signatures and oath of the president or vice-president, with those of the secretary or actuary. No company having neglected to file a statement required of it within the time and manner prescribed, shall do any new business, after notification by the Insurance Commissioners, while such neglect continues; and any company or association neglecting to make

and transmit any statement required, shall forfeit one hundred dollars for each day's neglect. (*Ibid*, § 12.)

**30.** No insurance company, not of this State, nor its agents, shall do business in this State, until he has filed with the Insurance Commissioner of this State a written stipulation, duly authenticated by the company, agreeing that any legal process affecting the company served on the Insurance Commissioner, or the party designated by him, or the agent specified by said company to receive service of process for the said company, shall have the same effect as if served personally on the company within this State, and if such company should cease to maintain such agent in this State so designated, such process may thereafter be served on the Insurance Commissioner; but so long as any liability of the stipulating company to any resident of this State continues, such stipulation can not be revoked or modified, except that a new one may be substituted, so as to require or dispense with the service at the office of said company within this State, and that such service of process according to this stipulation shall be sufficient personal service on the company. The term process includes any writ of summons, subpoena, or order, whereby any action, suit, or proceedings shall be commenced, or which shall be issued in or upon any action, suit, or proceedings brought in any court of this commonwealth having jurisdiction of the subject matter. (*Ibid*, p. 27, § 13.)

**31.** Any person or persons, or corporation, receiving premiums, or forwarding applications, or in any other way transacting business for any insurance company or association not of this State, without having received authority agreeably to the provisions of this act, shall forfeit and pay to the commonwealth the sum of five hundred dollars for each month or fraction thereof during which such illegal business was transacted, and any company not of this State doing business without authority, shall forfeit a like sum for every month or fraction thereof, and be prohibited from doing business in this State until such fines are fully paid. (*Ibid*, § 14.)

**32.** The taxes, fines and penalties provided in this act shall, in case of non-payment, after notice from the Commissioner, be collected as taxes upon corporations or individuals are now collected by law, and for this purpose the Insurance Commissioner shall have all the powers now conferred by law upon the Auditor-General in the settlement of accounts, subject, however, to the approval of the State Treasurer, and to the right of appeal as in other cases. (*Ibid*, § 15.)

**33.** The provisions of this act shall not be applicable to insurance companies incorporated by other States, or by the United States, or by foreign governments, until from and after the first day of January, anno domini one thousand eight hundred and seventy-four; nor shall it apply, excepting the eighth section of this act, to fire insurance companies of this State organized and conducted on the purely mutual plan with premium notes as the basis of security, and without capital stock, guaranty capital or accumulated reserve in lieu of capital stock, but the mutual companies aforesaid shall, at all times, be required to answer such interrogatories as the Insurance Commissioner may require, in order to ascertain their true character and condition, and for this purpose he may, at any time, institute an examination into their affairs, as in the case of companies subject to the general provisions of this act. (*Ibid*, p. 28, § 16.)

**34.** It shall not be lawful for any city, county or municipality

to impose or collect any license fee or tax upon insurance companies or their agents, authorized to transact business under this act. (*Ibid*, § 17.)

**35.** An act to revise, amend and consolidate the several laws regulating the licensing of foreign insurance companies, approved April eleventh, anno domini one thousand eight hundred and sixty-eight, is hereby repealed, said repeal to date from the first day of January, anno domini one thousand eight hundred and seventy-four, saving, however, to the commonwealth the right to collect all taxes and fees accrued under said act. (*Ibid*, § 18.)

## INSURANCE COMPANIES CHARTERED BY THE COMMONWEALTH.

**36.** The said Courts of Common Pleas shall have power and authority to grant charters of incorporation, in all cases wherein any number of persons, citizens of this commonwealth, are associated for the purpose of insuring horses, cattle and other live stock, against loss by death, from diseases or accident, or from being stolen \* \* \* and in granting such charters of incorporation, the said courts shall proceed in the manner provided by law for the incorporation of literary, charitable or religious societies; and the said courts shall have power to incorporate, by the same form of proceeding, fire insurance companies; which said companies, when so incorporated, shall have all the rights, powers and privileges, and be subject to all the restrictions and provisions of the general law regulating fire insurance companies, approved April second, one thousand eight hundred and fifty six, and the several supplements thereto. (*Laws of 1867*, p. 45, § 3.)

**37.** Insurance companies created by the Courts of Common Pleas, under the provisions of the act of March twenty-sixth, one thousand eight hundred and sixty-seven, entitled "An act to enlarge the jurisdiction of the Courts of Common Pleas of this Commonwealth," shall be chartered by the said courts as of the first class as set forth and defined in section seven of the act of April two, one thousand eight hundred and fifty-six [47], entitled "An act to provide for the incorporation of insurance companies;" and all insurance companies so incorporated shall have such amount of capital stock as may be determined by the court (not less in any case than fifty thousand dollars), at least fifty per cent. of which shall be paid in before any certificate of incorporation shall be issued. (*Laws of 1869*, p. 7, § 1.)

**38.** All insurance companies organized under the provisions of this act, or the acts to which this is a supplement, shall pay into the State treasury the same bonus, and in like manner, as prescribed by the fifteenth section of the act approved May one, one thousand eight hundred and sixty-eight, entitled "An act to revise, amend and consolidate the several laws taxing corporations, brokers and bankers," and such tax on dividends on capital stock as is now or may hereafter be required by law; and said bonus shall be paid to the State Treasurer before the certificate of incorporation shall be issued. (*Ibid*, p. 8, § 2.)

**39.** All payments for stock required to be made under the provisions of said act of April two, one thousand eight hundred and fifty-six, may be made in lawful money of the United States. (*Ibid*, § 3.)



**40.** The provisions of the first section of an act entitled "An act supplementary to an act to enlarge the jurisdiction of the Courts of Common Pleas of this Commonwealth," approved March twenty-sixth, one thousand eight hundred and sixty-seven, so far as the same relates to the chartering of insurance companies, shall not apply to mutual fire insurance companies, but such companies may be incorporated by the courts, without a capital stock. (*Laws of 1871, p. 240.*)

**41.** Whenever the Courts of Common Pleas shall authorize the incorporation of an insurance company within this commonwealth, the commissioners named in the charter, or any five of them, shall have power to open books for receiving subscriptions to the capital stock of said company, at such time and place as they may deem expedient, after having given at least thirty days previous notice in one or more newspapers published in the county where a book of subscription is to be opened, or if no such paper shall be published in said county, then in a newspaper published in the next adjoining county, at which time and place two or more of said commissioners shall attend, and permit all persons of lawful age who shall offer to subscribe in such book in their own names, or in the name of any person who shall duly authorize the same, for any number of shares of stock; and the said book shall be kept open for the purpose aforesaid, at least six hours in every secular day for the space of five days, or until the said book shall have the whole number of shares so authorized therein subscribed, and if at the expiration of the said five days the book aforesaid shall not have the full number of shares so authorized therein subscribed, the said commissioners may adjourn from time to time, and transfer said book from place to place until the whole number of shares shall be subscribed, of which adjournment and transfer the commissioners aforesaid shall give public notice in one or more newspapers published as aforesaid; and when the whole number of shares shall be subscribed, as aforesaid, the said book shall be closed; *Provided, always,* That every person offering to subscribe in such books, in his own or any other name, shall at the time of subscribing pay to the attending commissioners five dollars for every share subscribed by such person, out of which fund shall be defrayed such incidental charges and expenses as may be incurred in taking such subscriptions, and the remainder shall be paid to the treasurer of the corporation as soon as the same shall be organized, and the officers chosen, as hereinafter mentioned. (*Brightly's Purdon's Digest, 1700-1872, p. 790, §1.*)

**42.** When twenty persons or more shall have subscribed the whole number of shares authorized, and shall have paid ten per centum on the capital stock, the said commissioners, or a majority of them, shall certify, under their hands and seals, and with their oaths or affirmations respectively, the names of the subscribers, and the number of shares subscribed and amount paid in by each, to the Governor of this commonwealth, who thereupon, if satisfied of the truth of said certificate, shall, by letters patent under his hand and seal of State, create and erect the subscribers into a body politic and corporate in deed and in law, by the name, style and title designated by said special act; and by such name the said subscribers, and those who may thereafter become associated with them, shall have perpetual succession, and shall be able to sue and be sued, implead and be impleaded, in all courts of record and elsewhere, and to make and to have a common seal, and the same to break, alter



and renew at pleasure; and also to ordain, establish and put in execution such by-laws, ordinances and regulations, as shall be necessary and convenient for the government of said corporation, not being contrary to the Constitution or laws of the United States or of this commonwealth, and generally to do all and singular the matters which to them it shall lawfully appertain to do for the well being of the said corporation and the management of the affairs thereof. (*Ibid*, p. 791, § 2.)

**43.** The capital stock of such company shall be divided into shares of fifty dollars each, payment of which shall be made in gold, silver, or notes of specie-paying banks of this commonwealth, and in the manner following, to wit: five dollars on each share at the time of subscription as aforesaid, and twenty dollars on each share within ninety days thereafter, the residue to be paid in such installments as by the by-laws of the corporation shall be directed, and if any subscriber, his or her assignee or transferee, shall refuse or neglect to pay the first or any subsequent installment called for and demanded by the directors of said company for the space of sixty days after the same shall be payable, such subscriber, his or her assignee or transferee, shall forfeit each and every share on which payment shall not have been duly made, or shall be liable to suit therefor, with one per cent. a month interest thereon, in the same manner as debts of the like amount are now recoverable. (*Ibid*, § 3.)

**44.** The affairs of said company shall be managed by twelve directors, stockholders of the said corporation, who shall be elected annually on the second Monday of January, between the hours of ten A.M. and two P.M., and the directors so elected shall appoint a president and vice-president of the company, and such other officers and agents as they may deem necessary for conducting the business of the corporation, who shall perform the duties of their respective offices until they shall be re-elected, removed from office, or their successors shall be chosen, and in case of the death or resignation of a director, the vacancy occasioned thereby shall be filled by the remaining directors. (*Ibid*, § 4.)

**45.** At all elections for directors the votes of the stockholders shall be by ballot, each share of stock not exceeding ten having one vote, and every five shares over ten having one additional vote. No stockholder shall vote by proxy, nor shall he or she be entitled to vote after the said first election, unless the share or shares shall have been standing in his or her name on the books of the company for three months previous to said election, nor unless the whole sum due and payable on the share or shares by him or her held at the time of such election, shall have been fully paid and discharged. The first election of directors shall be held on the third Monday after letters patent shall have been granted as aforesaid; and said directors then chosen shall hold their offices until the first annual election, or until new directors shall be chosen as herein provided. (*Ibid*, § 5.)

**46.** The shares of stock of the said corporation shall be assignable and transferable only on the books of the corporation, according to such rules and regulations as the directors shall for that purpose ordain and establish, and not otherwise. (*Ibid*, p. 792, § 6.)

**47.** The said companies shall be \* \* \* empowered to take risks against fire on all kinds of buildings, merchandise and other property, either limited or perpetual; to effect marine and inland insurances on vessels, cargoes and freights, and on

merchandise and other property transported on rivers, canals, lakes and railroads, and by steamboats, wagons or other wise, and to reinsure themselves; \* \* \* *Provided*, That any company may limit itself in its charter to the exercise of a portion of the powers enumerated. \* \* \* (*Ibid*, § 7.)

48. Any company incorporated under this act shall not have nor exercise the powers of savings or discount institutions, and shall be subject to the right of the legislature to alter, revoke or annul their charters, whenever, in their opinion, it may be necessary for the public welfare; in such manner, however, that no injustice can be done to the corporators. (*Ibid*, § 8.)

49. It shall and may be lawful for said companies to employ and invest their capital stock, and other moneys of said companies, in bonds and mortgages on real estate, in respondentia or bottomry bonds, ground rents, stocks or loans of the United States and State of Pennsylvania, and stocks or loans of any borough, city or institution, incorporated by the laws of this State, and in other good securities, and to sell and transfer the same, and to reinvest the proceeds of such sale or transfer in other such loans, stocks or securities; and the real estate which it shall be lawful for said company to purchase, receive, hold, and convey, shall be—

*First*—Such as shall be requisite for its immediate accommodation in the convenient transaction of business.

*Second*—Such as shall have been mortgaged to it in good faith, by way of security for loans previously contracted, or for moneys due.

*Third*—Such as shall have been conveyed to it in satisfaction of debts previously contracted in the course of its dealings.

*Fourth*—Such as shall be purchased at sales upon judgments, decrees or mortgages, obtained or made for debts due said company, or for debts due other persons where said company may have liens or incumbrances on the same, and the purchase is deemed necessary to save the company from loss; *Provided*, That no real estate acquired by the corporation, except that necessary for the transaction of business, shall be retained by said corporation for a longer period than five years; and *Provided, further*, That whenever such company shall have the power of receiving and executing trusts under the second classification aforesaid, it shall be and is hereby authorized and empowered to take, receive and hold, all estates and property, real and personal, which may be granted, committed, transferred or conveyed to it with its consent upon any trust or trusts whatsoever, at any time or times, by any person or persons, body or bodies corporate, or by any court of the United States or of this State, and to administer, fulfill and discharge, the duties of such trusts. (*Ibid*, § 9.)

50. In execution of the several powers that may be conferred on such companies respectively, they are hereby empowered to make, execute and perfect, such contracts, bargains, agreements, policies and other instruments, as shall or may be necessary, and as the nature of the case may require; and every such contract, bargain, policy and other agreement, shall be in writing or print under the corporate seal, and signed by the president, or in his absence or inability to serve, by the vice-president, or other officer in that event designated by the by-laws, and shall be duly attested by the secretary or other proper officer of said company, who may be in like manner designated. (*Ibid*, § 10.)

**51.** Whenever any company may be incorporated under this law, and may intend to transact its business upon the mutual principles exclusively, or in connection with a joint stock capital, it shall be so designated in its charter; and if upon the mutual principle exclusively, then the parties named in said special act, and their associates, shall be made and constituted a body corporate, directly, and without the grant of letters patent, as hereinbefore provided in reference to joint stock companies; and in that case all persons insuring with, and continuing to be insured therein, shall thereby become members during the period they shall remain so insured, and no longer, and shall pay such rates as shall be determined by the board of directors, and be liable for all losses and expenses of said company to the amount of the premiums paid, or agreed to be paid by said members respectively. At the elections for directors, each member insured by any sum not less than one dollar, paid in as a premium of insurance to said company during the year previous to said election, and on policy then existing, shall have one vote; and for every additional twenty-five dollars so paid, one other vote. In other respects the management of said mutual companies shall be as hereinbefore provided in reference to joint stock insurance companies. (*Ibid*, § 11.)

**52.** The directors of the said companies shall, on the first Monday of January and July in each and every year, declare dividends of profits as to them shall appear advisable, first deducting all expenses and losses, but the moneys received for premiums upon risks, which remain undetermined and outstanding at the time of declaring such dividend, shall not then be considered as part of the profits, nor divided as such, when said companies are conducted upon the joint stock principle; said dividends shall be paid to the respective stockholders, or to the agents duly empowered to receive them; and when organized upon the mutual principle exclusively, each member shall be entitled to such a proportion of the said surplus as the cash premium paid by such members respectively may bear to the aggregate surplus so declared; and for the proportionate share of each member so ascertained, a certificate shall be issued declaring him or them to be entitled to such a portion of the accumulated capital of the company, said certificate to be construed and governed as hereinafter mentioned; but no certificate shall be issued for a less sum than twenty-five dollars, nor for any fractional part of five dollars, and shall, at the discretion of the directors, bear and be paid interest at a rate not exceeding six per centum per annum. When said companies shall be organized upon the stock and mutual principle jointly, the directors, after ascertaining the surplus as above mentioned, shall first set aside out of the same six per cent. on the actual value of the capital stock of said company; which valuation shall be estimated by the said directors for that purpose, and the balance shall be apportioned among the insured members and the stockholders; and each insured member shall receive certificates as aforesaid for such a proportion of the said surplus as the premiums paid by him on determined risks may bear to the entire collective amount of stock valued as aforesaid, and premiums earned; and each stockholder shall receive such a proportion of the same as the stock so valued and held by him may bear to the entire collective amount of said stock and premiums earned. (*Ibid*, § 15.)

**53.** No dividend shall be declared, certificate issued, or interest



paid to either stock or certificate-holders, when the capital stock shall have been reduced, by losses or expenses, until the same shall have been restored. And if the directors shall knowingly make a dividend or dividends contrary to the true intent and meaning of the prohibition herein contained, such of them as shall consent thereto, shall in their individual capacity be accountable for, and pay over to the said company for the use thereof, as much as they may divide and pay without authority; and each director in office at the time of making such dividend so prohibited, shall be deemed as consenting thereto, unless he or they shall, at the time of making and declaring the same, be absent, or if present, shall immediately enter his or their protest on the minutes of the board; no interest shall be paid on certificates of surplus profit until the interest on the stock of said company shall first be provided for. (*Ibid*, p. 794, § 16.)

**54.** Within thirty days after the yearly balance of the affairs of said company shall be struck, the directors shall cause to be paid, in cash, to the stockholders of any such joint stock insurance company, the amount of dividends they may respectively be entitled to; and when any such company may be chartered upon the stock and mutual principle combined, they shall cause to be paid to the stockholders, in cash, not exceeding six per centum on their stock respectively; and shall issue the company's certificate to such insured members and stockholders respectively, agreeably to the provisions of the twelfth section; in which case, and, when said company shall be chartered on the mutual principle exclusively, the certificates issued to the members as aforesaid shall not be paid until the net profits or surplus shall exceed the sum of two hundred and fifty thousand dollars, when the said excess may be applied for the redemption of said certificates, and any arrears of interest that may have been allowed thereon. (*Ibid*, § 17.)

**55.** It shall be the duty of every company incorporated under this act to publish within thirty days after the first Monday of January, in each year, at least three times a week for the space of two weeks, in a daily newspaper published in the county in which they do business, if a daily newspaper be printed in said county; and in such counties where no daily newspaper is published, once a week for three weeks, a statement showing particularly, in tabular form, the amount of their capital authorized and paid in; the amount, nature, and actual value of their assets; the annual amount of their premiums, and the amount derived from interest on loans or investments during the said period; the amount of annual expenses of said company; the amount of their losses during said period, and the amount of their risks, insurances, and annuities, and also of their debts and liabilities. (*Ibid*, § 18.)

**56.** All companies incorporated under this act shall semi-annually account for, and pay into the treasury of this commonwealth, the tax on capital stock and dividends, as provided by the thirty-third section of "An Act to reduce the State debt, and incorporate the Pennsylvania Canal and Railroad Company," passed the twenty-ninth day of April, anno domini one thousand eight hundred and forty-four, or as may be from time to time provided by law. (*Ibid*, § 19.)

**57.** Any violation of the provisions of their charter by any of the companies aforesaid shall be held and deemed a forfeiture of the corporate privileges therein conferred; and said forfeiture shall



be declared upon *quo warranto*, or otherwise according to law, at the relation of the commonwealth or of any private citizen. (*Ibid*, p. 795, § 21.)

**58.** Nothing contained in the ninth section of the act to which this is a supplement, shall be so construed as to authorize any company incorporated under the provisions of said act to invest or employ their capital stock or other moneys in the purchase or discount of, or advance upon promissory notes, bills of exchange, or other negotiable paper. (*Laws of 1857, p. 380.*)

**59.** Corporations may be formed under the provisions of this act by the voluntary association of five or more persons, for the purposes and in the manner mentioned herein; and when so formed, each of them, by virtue of its existence as such, shall have the following powers, unless otherwise specially provided: *First*—To have succession by its corporate name for the period limited by its charter, and when no period is limited thereby, or by this act, perpetually, subject to the power of the General Assembly, under the constitution of this commonwealth. *Second*—To maintain and defend judicial proceedings. *Third*—To make and use a common seal, and alter the same at pleasure. *Fourth*—To hold, purchase, and transfer such real and personal property as the purposes of the corporation require, not exceeding the amount limited by its charter or by law. *Fifth*—To appoint and remove such subordinate officers and agents as the business of the corporation requires, and to allow them a suitable compensation. *Sixth*—To make by-laws not inconsistent with law, for the management of its property, the regulation of its affairs, and the transfer of its stock. *Seventh*—To enter into any obligation necessary to the transaction of its ordinary affairs. (*Laws of 1874, p. 73, § 1.*)

**60.** The purposes for which the said corporation may be formed, shall be as follows [among others]:

The insurance of the lives of domestic animals.

The insurance of human beings against death, sickness or personal injury.

The prevention and punishment of theft or willful injuries to property, and insurance against such risks.

The insurance of owners of real estate, mortgagees, and others interested in real estate, from loss by reason of defective titles, liens and incumbrances. (*Ibid*, § 2.)

**61.** Companies incorporated under the provisions of this act for the insurance of the lives of domestic animals, or any of them, shall have the power and right to make insurance of every kind, pertaining to or connected with life risks of domestic animals of any and every kind, and against the loss by death of all kinds of cattle, live stock, valuable beasts, and domestic animals of every kind, whether such death be the result of accident, natural causes, or diseases of any description whatever, and to make, execute and perfect such and so many contracts, agreements, policies, and other instruments as may be required therefor. (*Ibid*, p. 84, § 27.)

**62.** Companies incorporated under the provisions of this act for the insurance of human beings against sickness, death or personal injury, shall have the power and right to make insurances of every kind pertaining to or connected with death, accidents of every nature and kind to human beings, and to insurances of every kind against the death, sickness or the health of human beings by disease of every kind, and whether within this commonwealth or be-

yond it, and such corporations shall have the power and right to make, execute and perfect such and so many contracts, agreements, policies and other instruments as may be required therefor. (*Ibid*, § 28.)

**63.** Companies incorporated under the provisions of this act for the insurance of owners of real estate, mortgagees and others interested in real estate, from loss by reason of defective titles, liens and incumbrances, shall have the power and right to make insurances of every kind pertaining to or connected with titles to real estate, and shall have the power and right to make, execute and perfect such and so many contracts, agreements, policies and other instruments as may be required therefor. (*Ibid*, § 29.)

**64.** All insurance or trust companies, created by the laws of this commonwealth, shall, on or before the third Tuesday of January, 1843, and annually thereafter, publish in one or more newspapers in the city or county in which they may have been established, a detailed statement of the assets belonging to the said institutions, that is to say: a description of the property; if real estate, what kind and where; if mortgages, whether first, second or otherwise; if stock, what kind and description of the same; designating, if bank stocks, what bank or banks, what amount, if any, that is loaned upon other securities, together with the amount of cash upon hand at the time said statement shall be made. (*Brightly's Purdon's Digest*, 1700-1872, p. 795, § 22.)

**65.** Any insurance company incorporated under the laws of this commonwealth, desiring to transact business in other States, the laws whereof require that such company shall first deposit securities of a designated value with the Auditor-General or other proper officer of this State in trust and for the benefit of all its policy-holders, is hereby authorized to deposit with either of said officers securities for such a sum as the laws of such other States designate; and if such officer is satisfied that such securities are worth the said sum, it shall be his duty to receive and hold the same or those given in exchange therefor as hereinafter provided, and for the purpose aforesaid, and from time to time upon the written request of said insurance company, to certify under his hand and official seal to the proper officer of such other State or States wherein said insurance company may desire to transact business, that said company has deposited with him securities, giving the items of kind thereof, and that he is satisfied they are worth the sum designated by the laws of such other State or States; *Provided*, That such insurance company shall be entitled to demand and receive from the Auditor-General or other officer of this State, from time to time, the whole or any portion of any securities, upon depositing with him in lieu thereof other securities of at least equal value, and also to demand, receive, sue for and recover the interest and income from said securities from the payee or obligee thereof as the same becomes due and payable, and that the Auditor-General shall charge the usual fee for the issuing of such certificates. (*Ibid*, p. 793, § 13.)

**66.** When any insurance company shall deposit as aforesaid the loans of this commonwealth, the Auditor-General shall notify the Farmers' and Mechanics' Bank of Philadelphia or other agent authorized by law to transfer the same, of such deposit, giving the name of the company so depositing, the amount deposited, with the numbers of the certificates of such loans; and it shall not be lawful to transfer any of the said loan without the certificate of the Auditor-

General that such company has received the same from him according to the provisions of this act, and the authority or power to transfer duly executed by the company owning the said loan under its corporate seal; *Provided, however,* That when deposits shall be made in securities other than the loan of this commonwealth, such company shall pay into the treasury of the commonwealth, at the time of such first deposit, the sum of fifty dollars. (*Ibid*, § 14.)

## INSURANCE COMPANIES OF OTHER STATES AND FOREIGN COUNTRIES.

**67.** No body, politic or corporate, of any foreign State, kingdom or country, no company or partnership of foreigners, by themselves or any agent or agents of such company or copartnership, and no person or persons, who is or are not a citizen or citizens of the United States, shall be insurers, in any case, within this State, against loss at sea, against loss by fire, upon any property within the same, upon inland transportation of any goods, wares or merchandise in or out of this State, or upon the life or lives of any person or persons residing within the same; and all contracts and policies entered into by any such person or persons, company, copartnership or body politic or corporate, as insurers, shall be null and void.\* (*Ibid*, p. 795, § 25.)

**68.** If any person or persons shall make or renew any contract or policy of insurance, as assurers on account or in behalf of, or as agent or agents for any body, politic or corporate, of any foreign State, kingdom or country, any company or copartnership of foreigners, or any person or persons who is or are not a citizen or citizens of the United States, within this State, every such person or persons so offending shall, on conviction in any court of competent jurisdiction, forfeit and pay the sum of five thousand dollars for every such offense, one-half to the use of the commonwealth, and the other to the use of the informer, who shall sue for the same.\* (*Ibid*, § 26.)

**69.** If any citizen or citizens of this commonwealth shall make or renew any contract or policy of insurance, as a party insured, with any foreign company or corporation, any agent or agents for any such company or corporation, or with any person or persons who is or are not citizens of the United States, every person so offending shall, on conviction in any court of competent jurisdiction, forfeit and pay the sum of five hundred dollars, to the uses aforesaid; and in all and either case or cases, the policy or policies shall be deemed and received as conclusive evidence of such contract of insurance; *Provided, nevertheless,* That the penalty herein mentioned shall not be construed to extend to any case of marine insurance made in any foreign country by any agent or agents for any American merchant or merchants, so as to secure the vessel or cargo belonging to any American merchant or merchants, nor to prevent any foreigner or foreigners from having his, her or their property insured within this State, excepting only an alien enemy.\* (*Ibid*, p. 796, § 27.)

\* This law has not been repealed, but has practically been a dead letter ever since the passage of the first subsequent act allowing such companies to do business in the State.

**70.** There shall be paid to the Treasurer of the Philadelphia Association for the Relief of Disabled Firemen of the City of Philadelphia, for the use and benefit of said association, for the relief of disabled firemen, on the first day of February in each year, by every person who shall act in the city and county of Philadelphia, as an agent for, or on behalf of any individual or association of individuals not incorporated by the laws of this State to effect insurances against losses or injuries by fire in the city and county of Philadelphia, although such individuals or associations may be incorporated for that purpose by any other State or country, the sum of two dollars upon the one hundred dollars, and at that rate upon the amount of all premiums which, during the year or a part of a year ending on the next preceding first day of September, shall have been received by such agent or person, or received by any other person for him, or shall have been agreed to be paid for any insurance effected, or agreed to be paid for any insurance effected or agreed to, effected or promised by him as such agent or otherwise, against loss or injury by fire in the city and county of Philadelphia. (*Ibid.* p 799, § 41.)

**71.** No person shall, in the city and county of Philadelphia, as agent or otherwise for any individual, individuals or associations, effect or agree to effect any insurance upon which the duty above mentioned is required to be paid, or as agent or otherwise procure such insurance to be effected, until he shall have executed and delivered to the said Treasurer a bond to the Philadelphia Association for the Relief of Disabled Firemen of the City of Philadelphia, in the penal sum of one thousand dollars, with such sureties as the said Treasurer shall approve, with a condition that he will annually render to the said Treasurer, on the first day of February in each year, a just and true account, verified by his oath, that the same is just and true, of all premiums which, during the year ending on the first day of September, preceding such report, shall have been received by him or by any other person for him or agreed to be paid for any insurance against loss or injury by fire in the city and county of Philadelphia, which shall have been effected, or promised by him to be effected, from any individual, or individuals, or association not incorporated by the laws of this State as aforesaid, and he will annually, on the first day of February in each year, pay to the said Treasurer two dollars upon every hundred, and at that rate upon the amount of any premiums so received. (*Ibid.* p. 800, § 42.)

**72.** Every person who shall effect, agree to effect, promise or procure any insurance specified in the preceding sections, of this act, without having executed and delivered the bond required by the preceding section, shall for each offense forfeit one thousand dollars for the use of the said association; such penalty of one thousand dollars shall be collected in the name of the Philadelphia association for the Relief of Disabled Firemen of the City of Philadelphia; *Provided*, That this act shall apply to only such persons as are *bona fide* agents of foreign insurance companies, under the provisions of the act of 1856. (*Ibid.* § 43.)

**73.** Every person who, at any time hereafter, as agent or otherwise for any individual or individuals, or association, may, in the city and county of Philadelphia, effect or agree to effect any insurance specified in the preceding sections of this act, shall, on the first day of February in each year, or within ten days thereafter,



and as often in each year as he shall alter or change his place of doing business in the said city, report in writing, under his proper signature, to the Treasurer of this State, and also the Treasurer of the Philadelphia Association for the Relief of Disabled Firemen in the City of Philadelphia, the street and number thereof in said city of his place of doing business as such agent, or otherwise designating in such report the individual or individuals and association and associations, for which he may be such agent or otherwise. And in case of default in any of these particulars, such persons shall forfeit for every offense the sum of five hundred dollars, to be recovered and collected in the name of the people of this State, for the use of the Philadelphia Association for the Relief of Disabled Firemen of the City of Philadelphia. (*Ibid*, § 44.)

**74.** No foreign corporation shall do any business in this commonwealth, until said corporation shall have established an office or offices and appointed an agent or agents for the transaction of its business therein. (*Laws of 1874, p. 108, § 1.*)

**75.** It shall not be lawful for any such corporation to do any business in this commonwealth, until it shall have filed in the office of the Secretary of the Commonwealth a statement, under the seal of said corporation, and signed by the president or secretary thereof, showing the title and object of said corporation, the location of its office or offices, and the name or names of its authorized agent or agents therein; and the certificate of the Secretary of the Commonwealth, under the seal of the commonwealth, of the filing of such statement, shall be preserved for public inspection by each of said agents, in each and every of said offices. (*Ibid*, § 2.)

**76.** Any person or persons, agent, officer, or employee of any such foreign corporation, who shall transact any business within this commonwealth for any such foreign corporation, without the provisions of this act being complied with, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by imprisonment not exceeding thirty days, and by a fine not exceeding one thousand dollars, or either, at the discretion of the court trying the same. (*Ibid*, § 3.)

#### SERVICE OF PROCESS UPON INSURANCE CORPORATIONS.

**77.** In addition to the remedies now provided by law, it shall be lawful for any person or persons, body politic or corporate, who may have a cause of action against any insurance company incorporated by the legislature of this commonwealth, or against any insurance company that may have an agency established in this commonwealth, to bring suit in any county where the property insured may be located, and to direct any process to the Sheriff of either of the counties in this commonwealth, and it shall be the duty of said Sheriff to execute all process directed to him under the provisions of this act, upon the president or other chief officer of the company against whom the same issued as he shall be directed, or upon the agent of any company not incorporated by the legislature of this commonwealth; and the manner of service and return shall be in the same manner as like process is now by law required to be made, and the same shall be returned to the court issuing the same; and all proceedings upon any suit not under this act, shall be the same as in other cases. (*Brightly's Purdon's Digest, 1700-1872, p. 802, § 53.*)

**78.** The fees allowed for any services performed by any officer under the provisions of this act, shall be the same as are now allowed by law for similar services in other cases; *Provided*, That no Sheriff or other officer charged with the service of any process, shall be entitled to charge traveling fees for any greater distance than the actual distance from the office of such Sheriff to the office or usual place of business of such insurance company, or to the place of residence of such agent, as the case may be, and back to the office of such Sheriff; *and Provided, further*, That all legal postage, paid on any and all writs transmitted by mail shall be charged and taxed as part of the costs. (*Ibid*, p. 803, § 2.)

### UNLAWFUL ISSUE OF POLICIES.

**79.** It shall be unlawful for any person, partnership, or association, to issue, sign, seal, or in any manner execute, any policy of insurance, contract, or guaranty against loss by fire or lightning, without authority expressly conferred by a charter of incorporation, given according to law; and every such policy, contract, or guaranty hereafter made, executed or issued shall be void. (*Laws of 1870, p. 14, § 1.*)

**80.** Any person offending against the provisions of this act, or any person who shall make, execute, or issue any policy of insurance, contract, or guaranty against loss by fire or lightning, without being so authorized by law, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall pay a fine not exceeding two hundred dollars, to the commonwealth, and the costs of prosecution; one-half of said fine shall be for the use of the informer; *Provided*, That nothing herein contained shall apply to any insurance company authorized by the laws of any other State to issue policies and effect insurance against loss by fire or lightning, which shall have complied with the laws of this commonwealth with respect to foreign insurance companies. (*Ibid*, § 2.)

### ASSIGNMENT OF POLICIES.

**81.** It shall be lawful for the assignee or assignees of the whole or any part of any policy of life, fire, or marine insurance, his executors or administrators, to bring suit, in the name of the assignee or assignees, for his, her, or their interest in any policy of insurance, against the company issuing the same, upon the happening of the contingency provided against. (*Laws of 1873, p. 46.*)

### SUPPLYING LOST POLICIES OF INSURANCE.

**82.** Whenever any policy of insurance upon any property, real or personal, granted by any body corporate or politic, shall have been lost or destroyed, such body corporate or politic shall, on proof of the loss or destruction of the same, in the manner hereinafter provided, furnish to the person or persons whose policy has been so lost or destroyed, a copy of the same, together with the transfers, which have been approved and recorded on the books of such body corporate, if any, which may have been made by the

original, or any subsequent grantee of such policy to the person or persons having the same, at the time of the loss or destruction thereof; the copy so made to be as effectual for the security and indemnification of the person or persons holding the same as the original, and subject like it to transfer to any person purchasing the property insured. (*Brightly's Purdon's Digest*, 1700-1872, p. 800, § 45.)

**83.** On the application of any person or persons to the Court of Common Pleas of the county in which the property has been insured, setting forth the loss or destruction of the policy of insurance, on oath or affirmation, together with a description of the property, the amount for which it was insured, the person or persons to whom granted, if practicable, together with the mesne transfers thereof, the court shall grant a rule in the body corporate or politic which granted such policy of insurance, commanding such body corporate or politic to appear before said court, on a day certain, not less than twenty days from the service of said rule, to show cause why a copy of such policy of insurance should not be supplied, in pursuance of the provisions of the first section of this act; and on the default of such body corporate or politic to appear and show cause why such copy as aforesaid should not be supplied, the court shall issue a mandate to such body corporate or politic to furnish such copy in ten days after service of the same; and on the neglect or refusal of such body corporate or politic to furnish a copy as aforesaid, the court, on due proof of the service of such mandate, and the neglect or refusal of such body corporate or politic to furnish such copy, shall direct a judgment to be entered by the prothonotary in favor of the person or persons making the application, against the said body corporate or politic, for the sum for which the said policy of insurance was granted, which said judgment shall stand for the security of the plaintiff or plaintiffs for such time as the policy of insurance itself would have done, and for the like purposes, and the costs of the proceedings shall be paid by the defendant, and the officers rendering services shall receive the like fees as are now allowed by law for similar services. (*Ibid*, p. 801, § 46.)

**84.** The rule and mandate to be issued under the provisions of the preceding section shall be directed to the Sheriff of the city or county in which the body politic or corporate has its office, or any branch or agency thereof, and the service shall be sufficient if made upon the president, secretary, treasurer, or authorized agent thereof; *Provided*, That no rule shall be entertained by the court, such as is authorized by the second section of this act, unless the person or persons entitled to the benefit of the policy, his agent or attorney, shall make oath or affirmation that the policy of insurance has been lost or destroyed, and that a demand for a copy of such policy was previously made of the president, secretary, treasurer, or authorized agent of the body corporate or politic which granted it, and a tender of not less than one dollar for the expenses of making such copy. (*Ibid*, § 47.)

#### LIFE INSURANCE FOR THE BENEFIT OF WOMEN AND CHILDREN AND OTHERS.

**85.** All policies of life insurance, or annuities upon the life of any person, which may hereafter mature, and which have been or

shall be taken out for the benefit of, or *bona fide* assigned to the wife or children or any relative dependent upon such person, shall be vested in such wife or children, or other relative, full (free) and clear from all claims of the creditors of such person. (*Brightly's Purdon's Digest*, 1700-1872, p. 802, § 52.)

### INQUESTS IN CASES OF FIRE.

**86.** Whenever it shall be made to appear, by the affidavit of a credible witness, that any building or other property has been set on fire maliciously, or burned from an unknown cause, it shall be lawful for the mayor, or any alderman of any city, or justice of the peace of any borough or township wherein such fire may have occurred, upon request of any citizen of such city, borough, or township, as the case may be, or of any president, secretary, or agent of any insurance company having a policy written and in force upon the premises burned or attempted to be burned, to proceed, with all reasonable dispatch, to investigate and ascertain, as far as practicable, the facts relating to the cause and origin of such fire; and for this purpose the said mayor, alderman, or justice of the peace shall have all the powers of a coroner for summoning a jury and witnesses and conducting the investigation. (*Ibid*, p. 354, § 201.)

**87.** The number of jurors shall not be less than three, and shall be selected from the vicinity where the fire occurred, who, after being sworn, or affirmed, to perform their duties faithfully, and inspecting the place where the fire occurred, and hearing such testimony as may be produced before them in regard to the premises, shall make out and deliver, to the officers having cognizance of the case, a report, under their hands and seals, in which they shall find and certify, as far as ascertained, how and in what manner such fire occurred, and who was guilty of firing the same, either as principal or accessory, or if not willfully set on fire, to certify how the same originated, as far as can be ascertained. (*Ibid*, § 202.)

**88.** If the jury shall find that any person or persons willfully set fire to the premises in question, or that reasonable cause exists for believing them to have been accessory thereto, then the mayor or other officer having cognizance of the case as aforesaid, shall bind over the witnesses to appear at the next court of quarter sessions of the proper county, to give testimony in the case; and if the person charged or implicated by the jury as aforesaid be not in custody, the mayor or other officer holding the inquest shall issue his warrant for the arrest of the accused, and being brought before such magistrate shall be committed or admitted to bail, to appear and answer, at the next court of quarter sessions of the proper county, such bill or bills of indictment as may then and there be preferred against him, her, or them, in the same manner as persons are held by such magistrates to answer, upon information made before them for like offenses. (*Ibid*, § 203.)

**89.** The officer issuing such process shall have the same power to examine the defendant as in other cases; the testimony of all witnesses examined before the jury under this act shall be reduced to writing, by the officer holding the inquest, and shall be returned by him, together with the inquisition of the jury and the recognizances and examinations taken by such officer, to the next court of quarter sessions of the proper county. (*Ibid*, p. 355, § 204.)



## ARSON AND INCENDIARISM.

**90.** If any person shall maliciously and voluntarily burn or cause to be burned, or set fire to, or cause or attempt to set fire to, with intent to burn, any factory, mill or dwelling-house of another, or any kitchen, shop, barn, stable, or other out-house, that is parcel of such dwelling, or belonging or adjoining thereto, or any other building, by means whereof a dwelling-house shall be burnt, then and in every such case, the person so offending shall be adjudged guilty of felonious arson; and on conviction thereof, shall be sentenced to pay a fine, not exceeding two thousand dollars, and to undergo an imprisonment, by separate or solitary confinement, at labor, not exceeding twelve years; and in case of the malicious burning or setting fire to any dwelling-house, or building that is parcel of such dwelling or belonging thereto, there is any person in the same, the offender being convicted thereof, shall be sentenced to pay a fine, not exceeding four thousand dollars, and to undergo an imprisonment, at separate or solitary confinement, not exceeding twenty years. (*Brightly's Purdon's Digest*, 1700-1872, p. 353, § 196.)

**91.** If any person shall willfully and maliciously burn, or cause to be burned, set fire to, or attempt to set fire to, with intent to burn, or aid, counsel, procure, or consent to the burning or setting fire to, of any barn, stable or other building of another, not parcel of the dwelling house, or any shop, storehouse or warehouse, malt house, mill or other building of another, or any barriek, rick or stack of grain, hay, fodder or bark, piles of wood, boards or other lumber, or any ship, boat or other vessel of another, lying within any county in this State, or any wooden bridge within the same, or State capitol or adjoining offices, or any church, meeting-house, court-house, jail or other public building belonging to this commonwealth, or to any city or county thereof, or to any body corporate or religious society whatever; the person offending shall, on conviction, be adjudged guilty of a misdemeanor, and be sentenced to pay a fine, not exceeding two thousand dollars, and to undergo an imprisonment, by separate or solitary confinement, at labor, not exceeding ten years. (*Ibid*, § 197.)

**92.** Every person, being the owner of any ship, boat or other vessel, or the owner, tenant, or occupant of any house, out-house, office, store, shop, warehouse, mill, distillery, brewery, or manufactory, barn or stable, or any other building, who shall willfully burn or set fire thereto, with intention to burn the same, with an intention thereby to defraud or prejudice any person or body politic or corporate, that hath underwritten or shall underwrite any policy of insurance thereon, or on any moneys, goods, wares, or merchandise therein, or that shall be otherwise interested therein, shall be guilty of a misdemeanor, and on conviction, be sentenced to pay a fine, not exceeding one thousand dollars, and to undergo an imprisonment, by separate or solitary confinement at labor, not exceeding seven years. (*Ibid*, p. 354, § 198.)

**93.** If any director, officer, agent or other person connected with, or doing business for or with any of said domestic insurance companies, shall fraudulently embezzle or appropriate to his own use, or the use of any other person or persons, any money or other property belonging to the said institution, or left with or held by the said company in trust, as a special deposit or otherwise, he or

they, on conviction thereof, shall be fined in a sum not less than the amount so appropriated or embezzled, and sentenced to undergo an imprisonment, in the penitentiary, in separate and solitary confinement, at labor, for a term not exceeding five years, at the discretion of the court; *Provided*, That this shall not prevent any person aggrieved from pursuing his, her or their civil remedy against such person or persons. (*Brightly's Purdon's Digest*, 1700-1872, p. 795, § 20.)

**91.** For General Provisions relating to Corporations, see *Brightly's Purdon's Digest*, 1700-1872, pp. 286-294, 801, 802 *Laws of 1874*, pp. 68-72, 73-75, 107.

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# INSURANCE STATUTES OF RHODE ISLAND.

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*Revised by Hon. Joel M. Spencer, Insurance Commissioner.*

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## INSURANCE COMMISSIONER.

1. The State Auditor, by virtue of his office, shall be Insurance Commissioner. (*General Statutes*, 1872, p. 308, § 1.)

2. The annual salary of the Insurance Commissioner shall be one thousand dollars. (*Laws of 1873*, p. 18.)

3. The Insurance Commissioner shall, whenever requested so to do by the Governor, visit any insurance company incorporated in this State, and shall have free access to its vaults and all its books and papers, and shall, if he deems it expedient, thoroughly inspect and examine all the affairs of such company, and make all such inquiries as may, in his opinion, be necessary to ascertain the condition of such company, and its ability to fulfill all its engagements, and whether it has complied with the provisions of law applicable to its transactions. (*General Statutes*, 1872, p. 308, § 2.)

4. The Insurance Commissioner may summon and examine, under oath, all directors, officers, and other agents of such insurance company, and such other witnesses as he may think proper, in relation to the affairs, transactions, and condition of the same; and any such director, officer, agent, or other person, who shall refuse, without justifiable cause, to appear and testify when thereunto required, as aforesaid, or who shall in any way obstruct said Commissioner in the discharge of his duties, as prescribed in this chapter, shall, on conviction thereof, be fined not exceeding five thousand dollars, or be imprisoned for a term not exceeding two years; and in case the person so refusing or obstructing as aforesaid be a director, officer, or agent of such company, such company may also be proceeded against, as is hereinafter provided. (*Ibid*, § 3.)

## INSURANCE COMPANIES CHARTERED BY THE STATE.

5. The Supreme Court, when in actual session, or otherwise, any justice thereof, shall, upon complaint in writing from the Insurance Commissioner, under oath, setting forth that, in his opinion, any insurance company has forfeited its charter at law, or is so managing its concerns that the public, or those having funds in its custody, are in danger of being defrauded thereby, or has become insolvent, forthwith issue a citation to such company, directed to, and to be served upon the president, secretary, or treasurer thereof, by leaving an attested copy at the office of the company, or usual place of business, commanding such president, secretary, or treasurer personally to appear before said court or justice, on a day and in a place to be mentioned in the citation, then and there under

oath to show cause, if any they have, why a writ of injunction should not issue enjoining such company from further exercising the powers and franchises conferred by its charter, and why said charter should not be forfeited. (*General Statutes*, 1872, p. 309, § 4.)

6. If, upon the examination of the president, secretary, or treasurer, and of such other witnesses and evidence as may be introduced by the Insurance Commissioner and defendants, the court or justice shall be of opinion that the charter of such company is forfeited at law, or that such company is so managed as that the public, or those having funds in its custody, or who hold policies of insurance issued by it, are in danger of being defrauded thereby, or that such company has become insolvent, said court or justice shall issue an injunction to the president, secretary, or treasurer, and other officers of said corporation, enjoining them from proceeding further in transacting the business thereof, and shall appoint some discreet and proper person to be receiver of all the evidences of debt, goods, effects, and property of every description belonging to such corporation, and may, from time to time, require such receiver to give bond, with surety to the satisfaction of said court or justice, for the faithful execution of his trusts. (*Ibid*, § 5.)

7. The receiver may take such evidences and property into his possession, and shall collect the debts, dispose of the property, and pay out of the proceeds thereof, if the same shall be sufficient, all the debts of the corporation, first reserving to himself such reasonable compensation as shall be allowed by said court or any justice thereof for his services. (*Ibid*, § 6.)

8. The receiver shall be clothed with all the powers and rights in respect to the collection of debts due to such corporation, which the corporation possessed by virtue of its charter or otherwise, before such injunction issued; and may be removed by the Supreme Court when in actual session, or otherwise, by any justice thereof, and another be appointed by said court or justice in his stead; and the said court shall have the same power and authority over the receiver, his acts, proceedings, and accounts, as is exercised by courts of equity in like cases. (*Ibid*, § 7.)

9. So long as any such injunction shall be in force against any corporation, all executions and other final process against such corporation, for the collection of debts shall be stayed. (*Ibid*, p. 310, § 8.)

10. The said court, when in actual session, or otherwise, any justice thereof, is also empowered to issue a limited or temporary injunction, staying proceedings in such particulars and for such length of time as in the opinion of the court, or justice, may be necessary for the safety of the public and the proper management of the affairs of the corporation, without proceeding to the appointment of a receiver. (*Ibid*, § 9.)

11. The Supreme Court, at any term thereof, subsequent to issuing said injunction, shall, upon hearing of the parties to said complaint, if it sees cause, declare the charter of such corporation forfeited. (*Ibid*, § 10.)

12. Such citation, whether issued by said court or by a single justice, may also contain a temporary injunction on said corporation and all its officers, restraining them from proceeding in any business of such corporation, except under the direction of the Supreme Court, when in actual session, or otherwise, some justice thereof, which in-

junction, unless removed, shall continue until the complaint is finally disposed of. (*Ibid*, § 11.)

**13.** If the president, secretary, or treasurer, agent or servant of any insurance company, which shall be enjoined as before mentioned, or any other person upon being required thereto, shall neglect or refuse to deliver to the receiver or receivers of such corporation, who may be appointed by virtue of this chapter, such evidences of debt, goods, effects, books, papers, and other evidence of property of every description, belonging to such corporation, as may be in their possession or under their control, every person so offending shall be fined not exceeding ten thousand dollars, or be imprisoned not exceeding three years; or be both fined and imprisoned within the limits last aforesaid, at the discretion of the court. (*Ibid*, § 12.)

**14.** The receiver of any mutual insurance company shall, under decree of the Supreme Court, or some justice thereof for that purpose, make and assess, pursuant as far as may be to the provisions of the charter of the company of which he shall be receiver, such further assessments, in addition to those which may have been theretofore made by such company, as may be necessary for the payment of the debts of such corporation, with the incidental expenses of assessing and collecting such assessments, and the cost and expenses of closing up the business of such corporation, including such reasonable compensation of such receiver as may be allowed by said court or some justice thereof, and may demand, receive, sue for and collect the same; and for the purpose of such assessment and collection, such receiver shall have all the powers and rights in these respects which such corporation possessed by virtue of its charter, or otherwise. (*Ibid*, § 13.)

**15.** Whenever the capital stock of any insurance company shall be diminished by reason of losses, or from any other cause, the stockholders of such company, at any legal meeting thereof called for the purpose, may (after making due allowance from the assets of the company of such amount as may be required to reinsure its outstanding risks) assess such further sum as may be necessary to fill up the capital stock to its original amount upon the several stockholders, in proportion to the amount of stock owned by each; and the stock of every stockholder shall be pledged and liable for such assessments; and in case any stockholder refuses to pay any such assessment, the stock standing in the name of such delinquent stockholder may be sold at public auction after thirty days' notice, in such manner as may be provided in the by-laws of such insurance company. (*Ibid*, § 14.)

**16.** The board of directors, or the president and secretary of any insurance company, may call special meetings of the stockholders of such company, whenever they may deem it expedient to do so, first giving thirty days' notice of the time, place and purpose of such meeting, in some newspaper published in the county where such insurance company is established, or, if there be no newspaper in the county, then in some newspaper of an adjoining county; and at all such special meetings not less than two-thirds of the shares shall be represented, either in person or by proxy, to constitute a quorum for doing business; and the stockholders of such insurance company, when so assembled, may act upon the business for which they were specially called together, and also upon such other busi-

ness as might, by law, be transacted at any regular meeting of such company. (*Ibid*, p. 311, § 15.)

**17.** Every mutual fire insurance company incorporated by the laws of this State may decline to take premium notes in part payment for insurance; *Provided*, There be inserted in the body of the policy issued a provision making the assured, his or their executors, administrators, or assigns, liable to such assessments as may be provided in such policy, and as shall become necessary in order to pay all losses and expenses, not exceeding twenty times the amount of the cash premium paid. (*Ibid*, § 16.)

**18.** In all cases in which the laws of any of the United States, other than this State, now require, and may hereafter require, that the insurance companies incorporated by the laws of other States shall deposit with some officer of the State in which such insurance company is incorporated, stocks or other securities, in trust or for the benefit of policy-holders of such companies, as a prerequisite to such companies transacting business in such other State, the General Treasurer of this State is hereby authorized to receive from any insurance company incorporated under the laws of this State, stocks or other securities, in such amount as may be required by the laws of such other State or States, on deposit and in trust for the benefit of the policy-holders of such company. (*Ibid*, § 17.)

**19.** The General Treasurer shall hold such stocks or securities so deposited, as security for policy-holders in said company, but any company so depositing may be permitted to receive and to collect the interest and dividends on its securities so deposited, and from time to time to withdraw such securities, on depositing with the said General Treasurer, other securities of the same character, the market value of which, at the time of such deposit, shall equal or exceed the amount required to be deposited. (*Ibid*, § 18.)

**20.** Whenever any insurance company shall have deposited the requisite stocks or securities, in conformity with the laws of the State or States in which such company is desirous of transacting business, the General Treasurer shall furnish such company, at its expense, a certificate under seal of such deposit, for each State which shall require the same, which certificate shall embrace the items of security, and the amount of each thus deposited, and shall state that he, said General Treasurer, is satisfied that such stocks are of the market value represented; but no stock or other securities so deposited, shall be withdrawn except as provided in the preceding section. (*Ibid*, § 19.)

**21.** Whenever any insurance company which shall have so deposited stocks or other securities with the General Treasurer of the State shall desire to relinquish its business, the General Treasurer shall, on application of such company, under the oath of the president or principal officer, and secretary, give notice of such intentions, in two newspapers published in this State, to be inserted at least twice a week, for six months; and, after such publication, the General Treasurer, on being satisfied by an examination of the books, and of the officers of such company under oath, that all its debts and liabilities are paid or extinguished upon any contract or agreement, shall deliver up to the company from whom he received the same, the stocks or other securities held by him belonging to such company. (*Ibid*, § 20.)

**22.** Whenever it shall become necessary, on application of any company, for the General Treasurer, or any person appointed by



him, to examine into and ascertain the value and condition of any stocks or other securities deposited with him by any insurance company, the expenses of such examination shall be borne by the company so applying, and the said General Treasurer shall be allowed to charge for his time and expense or for the time and expense of the person he shall appoint to make such examination; such examination shall be made annually by the General Treasurer; and in case it shall appear at any time that the stocks or other securities so deposited amount to less than the sum required for the purposes for which such deposits has been made, the General Treasurer shall notify the company, and, unless the deficiency is made up within thirty days, the said General Treasurer shall countermand all the certificates he may have issued, and notify the treasurer, comptroller, or other financial officer of such States as he may have transmitted his certificates to, and shall, as soon as may be, publish his doings in one newspaper printed in the city of Providence, for three weeks. (*Ibid*, p. 312, § 21.)

**23.** Nothing in this chapter shall be construed as rendering this State liable for the value of any stock or other securities, deposited by any insurance company according to the provisions herein contained. (*Ibid*, § 22.)

**24.** Whenever by the laws of any other State of the United States any charges, taxes, fines, penalties, deposits of money or of securities, or other obligations, or prohibitions, are imposed upon insurance companies incorporated or organized under the laws of this State, or upon the agents of such insurance companies; so long as such laws continue in force, the same charges, taxes, fines, penalties, deposits, and obligations shall be imposed upon all insurance companies doing business in this State, which are incorporated or organized under the laws of such other State, and upon their agents. (*Ibid*, § 23.)

**25.** Every insurance company doing business in this State shall transmit to the Insurance Commissioner a statement of its condition and business for the year ending on the preceding thirty-first day of December, which statement shall be rendered on the first day of January following, or within thirty days thereafter, by fire insurance companies, or within sixty days thereafter by marine and life insurance companies, except that foreign insurance companies shall transmit their statement of business other than that done in the United States, prior to the following first day of July; and the Insurance Commissioner shall present transcripts thereof to the general assembly with his report. (*Ibid*, § 24.)

**26.** The statements and returns required to be made and published pursuant to the provisions of this chapter shall, so far as the same may be applicable, be made and published of and concerning each class in any company authorized to take risks in separate classes; and, in case of mutual insurance companies, the form of such statements and returns may be varied by the Insurance Commissioner, so as to ascertain more correctly the condition of such companies. (*Ibid*, § 25.)

#### FOREIGN INSURANCE COMPANIES.

**27.** No insurance company, unless incorporated by the general assembly, shall make any insurance on property within this

State, nor contract for insurance with any party resident therein, until such insurance company shall have complied with the provisions of this chapter. (*General Statutes*, 1872, p. 313, § 1.)

**28.** Every insurance company, not incorporated under the authority of this State, before contracting to insure property within this State, shall appoint by a written power some citizen of this State, resident therein, their attorney, with authority to accept service of all lawful process against such company in this State, and upon whom all lawful process, including the process of garnishment against such company in this State, may be served, whose duty it shall be, in case of garnishment, when his lawful fees therefor shall have been paid or tendered, to make the affidavit required by law in such cases, and to cause an appearance to be entered in like manner as if such company had existed and been duly served with process within this State. (*Ibid*, § 2.)

**29.** A copy of such power of attorney, duly certified and authenticated, shall be filed with the Insurance Commissioner, and copies thereof, duly certified, shall be received in evidence in all courts of this State. (*Ibid*, p. 314, § 3.)

**30.** If such attorney shall die, or resign, or be removed, it shall be the duty of such company to make a new appointment as aforesaid, and file a copy with the said Insurance Commissioner as above prescribed, so that at all times, and while any liability remains outstanding on such insurance, there shall be within this State an attorney authorized to accept service of process and to enter an appearance as aforesaid; and no such power of attorney shall be revoked until after a like power shall have been given to some other competent person, and a copy thereof filed as aforesaid. (*Ibid*, § 4.)

**31.** Service of process upon such attorney shall be deemed sufficient service upon his principals. (*Ibid*, § 5.)

**32.** No person shall act within this State as agent or otherwise, in procuring or securing applications for insurance, upon the life, health, or safety of any person, or in any manner aid in transacting the business of such life, health, or safety insurance, for any company or association incorporated by, or organized under the laws of any other State or government, unless such company is possessed of one hundred thousand dollars capital, and the same is invested in stocks created by the laws of the United States, or by or under the laws of the State in which such company is located, or in other good and safe stocks or securities, the market value of which, at the time of such deposit, shall be at or above par, which investments are deposited with the Auditor, Comptroller, or chief financial officer of the State, by whose laws such company is incorporated, and the general Treasurer of this State is furnished with the certificate of such Auditor, Comptroller, or chief financial officer aforesaid, under his hand and official seal, that he as such Auditor, Comptroller, or chief financial officer of such State, holds in trust and on deposit, for the benefit of all policy-holders of such company, the security before mentioned, which certificate shall embrace the items of security so held, and shall state that he is satisfied that such securities are worth one hundred thousand dollars. (*Ibid*, § 6.)

**33.** Every person who shall so far represent any insurance company, established in any other State or country, as to receive or transmit proposals for insurance, or to receive for delivery poli-

cies founded on proposals forwarded from this State, or otherwise to procure insurance to be effected by such company for persons residing in this State, shall be deemed and taken to be acting as agent for and undertaking to make insurance as agent for and in behalf of such company, and shall be subject to the restrictions, and liable to the penalties, herein made applicable to agents of such companies. (*Ibid*, § 7.)

**34.** Every such agent, before making any such contract of insurance as aforesaid, shall deposit with the Insurance Commissioner of this State a copy of the charter of the company or corporation for which he is agent as aforesaid, and a copy of the power of attorney given to him by such company, and shall pay to the Insurance Commissioner five dollars, for the use of the State. (*Ibid*, § 8.)

**35.** Every such agent shall also, before making any contract of insurance as aforesaid, deposit with the Insurance Commissioner of this State a statement, signed and sworn to by the president and secretary of the company for which he acts, specifying if such company is either a fire, marine, or fire and marine, life, health, accident, or other insurance company, stating the amount of its capital, and the manner of its investment, designating the amount invested respectively in mortgages, in public securities, in the stock of incorporated companies (stating what companies,) and also the amount invested in other securities, particularizing each item of investment; the amount of marine risks not terminated, and the premium paid thereon; the amount of fire risks not terminated, and the premiums paid thereon; the amount of liabilities, specifying therein the amount of outstanding claims, adjusted or unadjusted, due or not due; and in case said company is incorporated upon the mutual principle, such statement shall set forth, in addition to the foregoing, the whole amount of risks insured by the same; the whole amount of premium thereon; what portion of it has been paid in cash; what security has been taken for the remainder; and what is the largest sum insured in any one risk; and the statement herein required to be made, so far as the same is applicable, shall be made of each class in companies authorized to take risks in classes, and in all cases the returns may be varied by the Commissioner, to obtain more definite information of such company. (*Ibid*, § 9.)

**36.** If the company for which such agent acts is either a life insurance company, health insurance company, or live-stock or other insurance company, such agent shall also, before making any contract of insurance as aforesaid, deposit with the Insurance Commissioner a statement, signed and sworn to by the president and secretary of the company for which he acts, specifying the amount of its capital and all its assets, and the manner of its investment, designating the amount invested respectively in mortgages, in public securities, in stock of incorporated companies (stating what companies), and also the amount invested in other securities, particularizing each item of investment; the amount insured by existing policies, the amount of liabilities, specifying therein the amount of outstanding claims, adjusted or unadjusted, due or not due, and the largest sum insured in any one risk. (*Ibid*, p. 315, § 10.)

**37.** The agent of every insurance company not incorporated under the authority of this State, doing business in this State, shall, before the fifteenth of February annually, also deposit with the Insurance Commissioner a similar statement of the capital of

the company, and the investments and risks, and premiums, as aforesaid, to be made up to the thirty-first day of December prior thereto, signed and sworn to as above directed; and the Commissioner shall annually in the month of February publish an abstract of the statements filed in his office as required by section nine of said chapter 144 [35], and by this section, and the expense of publishing said abstract shall be paid by such companies. (*Ibid*, § 11, as amended by laws of 1874, p. 147.)

**38.** No person shall be allowed to act as agent as aforesaid for any such insurance company in making any contract of insurance with any person in this State, unless the capital stock of the company for which he acts amounts to the sum of one hundred thousand dollars, actually paid in in money and invested, exclusively of any obligations of the stockholders of any description; nor unless such company shall be restricted, by its charter or otherwise, so that it can not lawfully incur in any one risk a greater hazard than one-tenth part of the amount of its capital. (*Ibid*, § 12.)

**39.** Every such agent shall exhibit, in conspicuous letters, on the sign designating his place of business, the name of the State under whose authority the company he represents has been incorporated; and such company and agent shall have printed in large type the name of such State, upon all policies issued to citizens of this State, on all cards, placards, and pamphlets, and in all advertisements published, issued, or circulated in this State by them or him, relating to the business of such company. (*Ibid*, § 13.)

**40.** If any such insurance company shall make insurance without complying with the provisions of this chapter, the contract shall be valid; but any agent of such company acting within this State, respecting the effecting of any policy of insurance, shall be fined not exceeding one thousand dollars, nor less than three hundred dollars; and all persons shall be deemed agents of such company, and acting as such, respecting the effecting a policy of insurance within the meaning of this section, who are agents and do acts within the terms of the seventh section thereof. (*Ibid*, p. 316, § 14.)

**41.** In case any insurance company, when thereto notified by the Insurance Commissioner, shall neglect to appoint an attorney, as is hereinbefore provided, such company shall not be entitled to recover any premium or assessment made by them on any contract of insurance with any citizen of this State, until such company shall have complied with the law requiring the appointment of such attorney. (*Ibid*, § 15.)

**42.** No person shall be allowed to act as agent of any such insurance company, until such company and such agent shall have complied with all the requirements of the laws of this State relating to such companies and their agents, and every person so acting without such compliance shall be fined one thousand dollars. (*Ibid*, § 16.)

**43.** The Insurance Commissioner shall annually examine the statements and returns required to be made by the companies and agents as aforesaid; and if, in his opinion, any return shall be obscure, defective, or unsatisfactory, he shall immediately require answers under oath, from the agent by whom such obscure, defective, or unsatisfactory return shall have been made, to such interrogatories as he may deem necessary or proper to be answered, in order to explain such return, and exhibit a full and accurate view



of the business and resources of the company represented by such agent. (*Ibid*, § 17.)

**44.** Every agent refusing or neglecting to answer such interrogatories for the space of thirty days shall be deemed not to have complied with the provisions of the laws of this State; and if he continue to act as agent aforesaid, shall be liable to the penalty prescribed in the sixteenth section hereof. (*Ibid*, § 18.)

**45.** The Insurance Commissioner shall prepare an abstract of the statements and returns made by such companies and their agents, which abstract shall be printed and laid before the general assembly in each year. (*Ibid*, § 19.)

**46.** No agent of any foreign insurance company doing business in any town in this State shall be allowed to establish any branch agency in any other town in this State. (*Ibid*, § 20.)

**47.** The Insurance Commissioner may, when he shall deem it important for the safety of the policy-holders, visit foreign insurance companies doing business in this State, and examine the condition of such companies; and such companies so visited shall pay to said Commissioner his expenses of such visit and examination. (*Ibid*, § 21.)

**48.** The provisions of this and the preceding chapter are not intended to apply to or affect corporations for religious, literary, or charitable purposes. (*Ibid*, § 22.)

## TAXATIONS OF INSURANCE COMPANIES.

**49.** Every insurance company, incorporated and doing business in this State, shall annually, on the first Monday in June, pay to the General Treasurer one cent. on each one hundred dollars on the amount at risk in such company on the 31st day of the preceding December. (*General Statutes*, 1872, p. 73, § 4.)

**50.** Every agent of an insurance company not incorporated by this State, doing business or residing herein, shall, during the month of January in every year, make return to the General Treasurer of the amount insured or procured to be insured by him, in this State, as such agent, during the year preceding, and of the amount of premiums received, and assessments collected, during the said period; and shall, at the same time, pay to the General Treasurer a tax of two per cent. on the amount of such premiums and assessments. (*Ibid*, § 5.)

**51.** If any such agent shall neglect to make such returns and payments as are prescribed by the preceding section, or if he shall make the same falsely or fraudulently, he shall be fined for every such offense not exceeding one thousand dollars, and a suit upon his bond given to secure the payment of such tax shall be forthwith prosecuted. (*Ibid*, § 6.)

**52.** Every such agent shall, before making or procuring to be made any contract of insurance as aforesaid, give bond to the General Treasurer, with two or more sureties, to be approved by him, in the sum of one thousand dollars at least, with conditions to make the annual returns before prescribed, and to pay said tax. (*Ibid*, § 7.)

**53.** All payments made for policies, whether in money or by note or other security, shall be deemed to be premiums within the meaning of the preceding sections of this chapter.

**54.** If any insurance company, institution for savings, or corporation shall neglect for the space of thirty days to pay the duty imposed upon such company, institution, or corporation, the General Treasurer shall issue his warrant of distress against the same, directed to the Sheriff or his deputy of the county in which such company, institution, or corporation is located, for the amount of such duty; commanding him, in the name of the State, to collect from such delinquent said amount, with interest thereon from the time the same was payable to the time of its actual receipt by such officer, with his lawful fees, and to make return thereof within ninety days from the date of such warrant. (*Ibid*, § 11.)

**55.** The officer charged with the service of such warrant shall levy and collect the sum therein named, by attachment and seizure of the real and personal estate of the delinquent against whom such warrant was issued, and shall sell the same at public auction, giving thirty days' previous notice of the time and place of such sale, by posting up two notices, in the town in which such insurance company, or institutions for savings, or other corporation is located, and deed of such estate made by such officer, shall vest in the purchaser all the right, title, and interest which such insurance company, or institution for savings, or other corporation had therein at the time of the attachment and seizure thereof. (*Ibid*, p. 74, § 12.)

#### INSURANCE ON LIVES FOR THE BENEFIT OF MARRIED WOMEN.

**56.** Any policy or policies of insurance, or part thereof, which shall not exceed in the aggregate the sum of ten thousand dollars, made by an insurance company on the life of any person, and expressed to be for the benefit of a married woman, whether the same be effected by herself or by her husband, or by any other person on her behalf, shall enure to her separate use and benefit, independently of her husband and of his creditors and representatives; and also independently of any other person effecting the same on her behalf, his creditors and representatives; and such policy may be sued in the name of the person beneficially interested therein, or in the name of the representative of such person. (*General Statutes*, 1872, p. 332, § 21.)

**57.** A trustee or trustees may be appointed by any court authorized to appoint trustees, to hold and manage the interest of any married woman in any such policy, or the proceeds thereof. (*Ibid*, § 22.)

#### ARSON AND INCENDIARISM.

**58.** Every person who shall commit arson shall be imprisoned for life, or for any term not less than ten years. (*General Statutes*, 1872, p. 544, § 1.)

**59.** Every person convicted of arson shall thereupon, with respect to all rights of property, to the bond of matrimony, and to all civil rights and relations, of whatever nature, be deemed to be dead in all respects, as if his or her natural death had taken place at the time of such conviction. (*Ibid*, p. 565, § 35.)

**60.** Every person who shall wrongfully or maliciously burn, or attempt to burn, or otherwise destroy any dwelling house or other

building whatever, the burning whereof shall not be arson at common law, or any ship or vessel, dam, lock, bridge, or flume, shall be imprisoned not exceeding ten years. (*Ibid*, p. 544, § 2.)

**61.** Every person who shall willfully burn, or attempt to burn, any building, or any goods, wares, or merchandise, or other chattels, which shall at the time be insured against loss by fire, with intent to injure the insurer, whether such person be the owner of the property or not, shall be imprisoned not exceeding ten years, nor less than two years. (*Ibid*, § 4.)

### EMBEZZLEMENT.

**62.** If any officer, agent, clerk, or servant, or person to whom any money or other property shall be intrusted for any specific purpose, shall embezzle or fraudulently convert to his own use, or shall take or secrete, with intent to embezzle and fraudulently convert to his own use, any money or other property which shall have come into his possession or shall be under his care or charge, by virtue of such employment, or for such specific purpose, he shall be deemed guilty of larceny, and may be tried, sentenced, and punished, as for any other larceny. (*General Statutes*, 1872, p. 545, § 15.)

**63.** For General Provisions relating to Corporations see *General Statutes*, 1872, pp. 290-292; *Laws of 1874*, chapter 366.

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# INSURANCE STATUTES OF SOUTH CAROLINA.

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## CONSTITUTIONAL PROVISIONS CONCERNING CORPORATIONS.

1. Corporations may be formed under general laws; but all such laws may from time to time be altered or repealed. (*Art. 12, § 1.*)

2. The property of corporations now existing, or hereafter created, shall be subject to taxation, except in cases otherwise provided for in this constitution. (*Ibid, § 2.*)

3. Dues from corporations shall be secured by such individual liability of the stockholders and other means as may be prescribed by law. (*Ibid, § 4.*)

4. All general laws and special acts passed pursuant to this section shall make provisions therein for fixing the personal liability of stockholders under proper limitations; and shall prevent and furnish fraudulent misrepresentations as to the capital, property, and resources of such corporations. (*Ibid, § 5.*)

## FOREIGN INSURANCE COMPANIES.

5. It shall not be lawful for any agent of any insurance company in the United States, or any foreign State, not incorporated by the laws of this State, to take risks or transact any business of insurance in this State, without first obtaining a license from the Comptroller-General, which license shall expire on the thirty-first day of March of each year; and, for every such license, the company or agent taking out the same shall pay, or cause to be paid, to the Comptroller-General the sum of five dollars. (*Revised Statutes, 1873, p. 335, § 6, as amended by act approved February 22, 1873.*)

6. Before the Comptroller-General shall issue such license to any agent of any insurance company not incorporated in South Carolina, there shall be filed in his office, by such agent, a certified copy of the charter of the company from which the said agent or attorney has received his appointment, and also a certified copy of the vote or resolution of the trustees or directors of said company appointing him such agent, accompanied by a warrant of appointment under the official seal of the company, and signed by the president and secretary. Such warrant of appointment shall continue valid and irrevocable until another agent or attorney has been substituted, so that at all times, while any liability remains outstanding, there shall be within the State an agent or attorney as aforesaid; and shall contain a consent expressed, authorizing process of law to be served on said agent or attorney for all liabilities of every nature incurred in this State by said company, and that

such service, made on such agent or attorney in the manner required by the laws of this State, shall be deemed legal and binding on the company or companies in all cases whatsoever, and that every judgment so recovered shall be conclusive evidence of the indebtedness of the company; and in addition to said warrant of appointment, there shall be filed and published a statement, made under oath of its president or secretary, showing its assets and liabilities, and distinctly showing the amount of capital stock, and how the same has been paid, and of what the assets of the company consist, the amount of losses due and unpaid, and all other claims against the company, or other indebtedness, whether due or not due at the time of the filing of the statement above, and shall further show:

*First.*—That said companies have fulfilled the provisions of their respective charters, and of the extensions and amendments thereto, in every particular, and whether there has been any change of charters since last statement.

*Second.*—The amount of policies outstanding, as near as can be ascertained.

*Third.*—The character of the risks, and the rule governing companies and their agents in taking the same, both as to locality and amount.

*Fourth.*—The particular character of the assets, specifying the amount of cash and public, bank, manufacturing or other stocks and bonds, or other securities, held by the companies, with the evidence that they are held by them, the rule of investment in real estate securities, and the general localities of real estate secured to companies.

*Fifth.*—The amount received from premiums, and whether sufficient to pay losses, etc.

*Sixth.*—Whether there have been any changes in agencies during the preceding year. (*Ibid*, § 7.)

7. Every agent or attorney obtaining such license shall also cause such license to be published in some newspaper, to be designated by the Comptroller-General, having circulation in the county in which he resides. The company shall also furnish to the Comptroller-General, through their agent, an annual statement of the affairs of the company, as provided in the preceding section, and it shall be the duty of the agent or agents to publish the same. (*Ibid*, p. 336, § 8.)

8. If the Comptroller-General shall become satisfied that any company is insolvent or unsafe, it shall be his duty to refuse license to its agent or agents, and to withdraw any license that has been already issued. (*Ibid*, § 9.)

9. Any person who shall deliver any policy of insurance, or collect any premium of insurance, or transact any business of insurance in this State, for any company in the United States, or foreign State, not incorporated by the laws of this State, without having first obtained the license by law required, or after his license has been withdrawn, or who shall in any way violate the foregoing provisions in relation to licenses of agents of insurance companies, shall be fined, for every such offense, not less than one hundred dollars, nor more than five hundred dollars, at the discretion of the Judge; *Provided*, That nothing contained in this section shall release any such company or companies upon any policy issued or delivered by it or them. (*Ibid*, § 11.)

10. When insurance companies shall have complied with the

requirements of the law, the Comptroller-General shall give a certificate to that effect, and, also, state the names of their attorneys; which certificate, when filed in the County Clerk's office, of the county where the agency is to be located, shall be the authority to commence business. (*Ibid*, p. 119, § 26.)

## TAXATION OF INSURANCE COMPANIES.

**11.** Each agent in this State of any insurance company organized under the laws of any other State or country, and doing business in this State, shall, annually, in the month of July, or before the twentieth of August, return to the Auditor of the County in which such agency is located, a sworn statement of the gross receipts of such agency for the year ending on the first day of that month, including all notes, accounts and other things received or agreed upon as a compensation for insurance at such agency, together with all the value of any personal property of said company situate at such agency; and the company shall be charged with taxes, at the place of said agency, on the amount so returned; and the agent shall also be personally responsible for such taxes, and may retain in his hands a sufficient amount of the company's assets to pay the same, unless the same shall be paid by the company. (*Revised Statutes*, 1873, p. 56, § 26.)

**12.** Every insurance company, organized under the laws of this State, shall return all its personal property, moneys, credits (including subscriptions of stock), investments in bonds, stocks, securities and assets of every kind, for taxation, at the place where its principal office is located. (*Ibid*, § 27.)

## MISCELLANEOUS.

**13.** Limited partnerships may be formed by two or more persons upon the terms, with the rights and powers, and subject to the conditions and liabilities herein prescribed; but these provisions shall not be construed to authorize any such partnership for the purpose of banking or making insurance. (*Revised Statutes*, 1873, p. 323, § 1.)

**14.** Such [turnpike, bridge, causeway, or ferry] corporation is expressly prohibited from effecting any insurance on lives or property. (*Ibid*, p. 348, § 55.)

## LIFE INSURANCE FOR THE BENEFIT OF MARRIED WOMEN AND CHILDREN.

**15.** A policy of insurance upon the life of any person which has already or may hereafter be taken out, in which it is expressed to be for the benefit of any married woman, or for the benefit of herself and her children, or for the benefit of herself and the children of her husband, whether procured by herself or her husband, shall inure to the use and benefit of the person or persons for whose use and benefit it is expressed to be taken out; and the sum or net amount of the insurance becoming due and payable by the terms of the policy shall be payable to the person or persons for whose use

and benefit it shall be expressed to be taken, free and discharged from the claims of the representatives of the husband or of any of his creditors, or any party or parties claiming by, through, or under him or them, or either of them; *Provided, however,* That if the premium paid in any one year out of the property or funds of the husband shall exceed the sum of five hundred dollars, the exemption from the claims of the creditors of the husband shall not apply to so much of said premium so paid as shall be in excess of five hundred dollars, but such excess, with the interest thereon, or so much thereof as may be necessary, shall inure to the benefit of such creditors, if any; *Provided,* That the same be necessary for their payment. (*Laws of 1875, p. 865.*)

### ARSON AND INCENDIARISM.

**16.** The willful and malicious setting fire to or burning any house, of whatever name or kind, within the curtilage or common enclosure of any house or room wherein persons habitually sleep, whereby any such dwelling-house or sleeping apartment shall be endangered; also the willful and malicious setting fire to or burning any court-house or other public building, whether owned by the State or a corporation, or a building owned by an individual or individuals, and kept or let for public meetings or exhibitions, barn, stable, coach-house, gin-house, store-house, warehouse, grist or saw-mill, railroad depot, coach or cotton factory, or other house used for manufacturing purposes, of whatever name or kind, or setting fire to or burning any house habitually used for public religious worship, shall be deemed arson, whether such setting fire to or burning be in the day or night time; and the person setting fire to or burning any such house, as aforesaid, and his or her aiders, abettors and accessories before the fact, shall, upon conviction, be punished by hard labor in the penitentiary for life, or for a period not less than ten years, according to the aggravation of the offense. (*Revised Statutes, 1873, p. 714, § 1.*)

**17.** For General Provisions relating to Corporations see Revised Statutes, 1873, pp. 56, 57, 338, 375, 601, 623, 679.



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# INSURANCE STATUTES OF TENNESSEE.

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*Revised by Hon. Henry W. Morrow, Commissioner of the Insurance Department.*

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## CONSTITUTIONAL PROVISIONS CONCERNING CORPORATIONS.

**1.** No corporation shall be created, or its powers increased or diminished by special laws; but the general assembly shall provide by general laws for the organization of all corporations hereafter created, which laws may, at any time, be altered or repealed; and no such alteration or repeal shall interfere with or divest rights which have become divested. (*Article 11, § 8.*)

## INSURANCE BUREAU.

**2.** There is hereby established a bureau, in connection with the office of the Treasurer, and to be designated the "Bureau of Insurance," which shall be charged with the enforcement of the laws heretofore, or which may be hereafter, passed relating to insurance. (*Laws of 1873, p. 88, § 1.*)

**3.** The State shall not be responsible for the expense of the establishment and future management of the "Insurance Bureau," but the same shall be provided for, and paid by the fees and allowances named in this act. (*Ibid, p. 89, § 2.*)

**4.** The chief officer of said bureau shall be the Treasurer, and he shall be denominated the Commissioner of the Insurance Department. (*Ibid, § 3.*)

**5.** The Commissioner shall visit and examine any insurance company incorporated in the State, on requisition by three or more persons, each of whom is a stockholder or creditor, or pecuniarily interested in such company, which requisition shall contain a statement made under oath by three or more persons making it, that they believe the company to be in an unsound condition, and shall state the grounds of such belief. At such time he shall have access to its books and papers, and make inquiries, such as are necessary to ascertain its condition and ability to fulfill its engagements, and whether it has complied with all the provisions of law applicable to its transactions. (*Ibid, § 4.*)

**6.** He shall, when required, as in the preceding section, examine into the affairs and condition of any insurance company doing business in this State, not organized under the laws of this State, or cause such examination to be made by some competent person appointed by him; and whenever it shall appear to the satisfaction of the Commissioner that the affairs of any such company

are in an unsound condition, or not conformable to any standard adopted by the State; or any such company shall refuse to permit the examination herein designated, he shall revoke all certificates granted in behalf of such company, and shall cause a notification thereof to be published in some newspaper of general circulation, published in this State, and all agents of such company are, after such notice, required to discontinue the issuing or delivering of any new policy, or the renewal of any previously issued, or the effecting in any form of any new insurance, for or on account of such company, under a penalty of five hundred dollars for each offense; which sum it shall be the duty of the Commissioner of Insurance to recover before any court of competent jurisdiction; two-thirds to be paid into the State treasury, and the other third to be retained by said Commissioner. (*Ibid*, § 5.)

7. He may summon and examine, under oath, the directors, officers and agents, of any insurance company, and such other persons as he may think proper, in relation to the affairs, transactions and condition of said company. Whoever, without justifiable cause, shall refuse to appear and testify when so required, or obstruct the Commissioner in the discharge of his duty, shall for each offense be punished by a fine not exceeding one thousand dollars, or by imprisonment not exceeding one year; and if the directors, officers or agents, of any insurance company, not incorporated by the State of Tennessee, but transacting business therein, shall refuse to appear and testify, when so required, he shall revoke the certificate of authority and license of such company and its agents. Any expense incurred in this behalf, shall be paid by the company into whose affairs an examination is made. (*Ibid*, p. 90, § 6.)

8. When in his opinion, upon examination, as heretofore provided, an insurance company, its officers or agents, have violated any law of this State relative to such company, the Commissioner shall forthwith report the fact to the Attorney-General of the Judicial Circuit, within which such violation has occurred, and it shall be his duty at once to prosecute such company, officer or agent therefor; *Provided*, That upon the examination of the testimony, he shall deem such prosecution proper. (*Ibid*, § 7.)

9. He shall annually furnish to the insurance companies of this State, and to the insurance companies not incorporated in this State, and doing business therein, so far as their agents are known to him, two or more printed copies of the form of annual statements to be made to him by all such companies on or before the 1st day of December of each year. (*Ibid*, § 8.)

10. Upon some day in each year designated by him, the Commissioner shall calculate the existing values of all outstanding policies of life insurance in companies authorized to make insurance on lives in this State, on the basis of four and a half per cent. interest on all mutual or participating policies; six per cent. interest on all stock or non-participating policies (where the company has as much as one hundred thousand dollars capital stock paid up). These calculations to be made upon the "American Experience Table of Mortality;" *Provided, however*, That if any company incorporated by any State where a regular organized Insurance Bureau or Department exists, shall furnish certificate under seal, in due form of the Insurance Commissioner or Superintendent, setting forth the existing values of all its outstanding policies; such certificate



shall be received as evidence by the Insurance Commissioner of this State; and no valuation of the policies of such companies shall be made by him; *Provided*, the cost of making every valuation, under this section shall be assessed on the company whose policies are so valued; and *Provided, further*, That any valuation made by the actuary of any home company, if made under oath, shall be received by the Commissioner; and in the event companies, whether foreign or home, make valuations as above provided, the Commissioner shall receive no fee. (*Ibid*, § 9.)

**11.** The Commissioner shall annually, on or before the first day of December, make a report to the Governor of the condition of the several insurance companies doing business in this State, with such suggestions as he may deem expedient, and shall include therein an aggregate of the calculated value of all outstanding policies of life insurance ascertained by him, in the manner prescribed in the preceding section; and in connection therewith, shall prepare an abstract of all returns and statements made to him, by such insurance companies and agents. (*Ibid*, p. 91, § 10.)

**12.** The Commissioner shall keep and preserve in a permanent form, a full record of his proceedings, including a concise statement of the condition of each company visited or examined by him, and of the facts elicited by such examination. (*Ibid*, § 11.)

**13.** The records of the said "Insurance Bureau" shall, at all times, be open to the inspection of the public, subject to such rules as may be made by the Commissioner for their safe-keeping, free from any charge whatever; and he shall, on demand, furnish certified copies of any paper, report or document on file in his office to any person requesting the same, upon payment of the fee allowed by law. (*Ibid*, § 12.)

**14.** The Commissioner, with the approval of the Governor, shall devise a seal, with suitable inscription, for the "Bureau of Insurance;" a description of which, with a certificate of approval by the Governor, together with an impression thereof, shall be filed in the office of the Secretary of State; which seal shall thereupon be and become the seal of the "Insurance Bureau," and the same may be renewed whenever necessary. Every certificate, assignment, or conveyance executed by the Commissioner, relating to the business of insurance companies, in pursuance of authority conferred by law, and sealed with said seal of office, shall be recorded in the proper recording office, in the same manner and with the same effect as a deed regularly acknowledged or proved before an officer authorized by law to take the proof or acknowledgment of deeds, and all copies of papers, in the office of said Bureau, certified by the Insurance Commissioner, and authenticated by the said seal, shall, in all cases, be evidence equally and in like manner with the original. (*Ibid*, § 13.)

**15.** The Commissioner of the Insurance Bureau shall possess all of the powers and perform all of the duties now conferred by law upon the Comptroller, or upon the Board of Commissioners under the act of July 8, 1870, in relation to insurance companies; and all books, papers, and documents in any department, relating to the business of insurance, shall be transferred to the Bureau of Insurance. (*Ibid*, p. 92, § 14.)

**16.** The fees of the Commissioner shall be as now established by law, with the following additional fees: For seal of office, one dollar; for copies of papers in his office, twenty cents per folio; for

cost of making valuations under section nine, not to exceed three (3) cents on every one thousand dollars of insurance effected, and all fees in excess of three thousand dollars shall be paid into the State Treasury. (*Ibid*, § 15.)

**17.** If the Insurance Commissioner shall exact or receive, either directly or indirectly, any sum of money from any insurance company doing business in this State, other than the fees allowed by law; or shall willfully issue a fraudulent or false certificate of soundness to any such company; or shall directly or indirectly receive any money or other valuable things for doing, or not doing, any official act as such Commissioner, other than the fees allowed by law, he shall be deemed guilty of a felony, and, upon conviction, shall be imprisoned in the State penitentiary not less than one nor more than five years. (*Ibid*, § 17,

### INSURANCE COMPANIES OTHER THAN LIFE.

**18.** Before any insurance company, whether incorporated by the laws of this State or not, shall transact any business of insurance in this State, except the business of life insurance, through agents or otherwise, it shall file with the Commissioner of Insurance a certified copy of the charter, or deed of settlement, of the company, and a statement of the company on the 31st day of December next preceding the day on which it shall apply for permission to transact business in this State, exhibiting the following facts and items, in the following form, namely:

*First.*—The amount of capital stock of the company, and how much of the same has been paid up in cash.

*Second.*—The property and assets held by the company, specifying:

1. The value and location of the real estate held by such company.

2. The amount of cash on hand and deposited in banks to the credit of the company; in what banks the same is deposited, and the amount in each.

3. The amount in the hands of agents and in course of transmission.

4. The amount of loans secured by bonds and mortgages, or deeds of trust, constituting the first lien on real estate, on which there shall be less than one year's interest due or owing; the location and value of each piece of such real estate, and the amount loaned on each piece.

5. The amount of loans on which interest shall not have been paid within one year previous to such statement, and how secured.

6. The amount due the company on which judgments have been obtained, and the cash value thereof.

7. The amount of stocks and bonds of this State, or of the United States, or of any other stocks or bonds owned by the company or corporation, specifying the amount, number of shares, and par and market value of each kind of stocks or bonds.

8. The amount of bonds, mortgages, or stocks held as collateral security for loans with the amount loaned on each kind of stock or bond, and their par and market value.

9. The amount of interest actually due and unpaid.
10. The amount of interest accrued but not due.
11. The amount of all other assets of every description and of what composed.

*Third.*—The liabilities of such company, specifying:

1. The amount of losses due and unpaid, and how much thereof is to citizens of this State.
2. The amount of claims for losses resisted by the company, and how much thereof is to citizens of this State.
3. The amount of claims for losses incurred during the year, including those claimed and not due, and those reported to the company upon which no action has been taken, and how much thereof is to citizens of this State.
4. The amount of dividends declared and due, and remaining unpaid.
5. The amount of dividends declared and not due.
6. The amount of money borrowed, and security given for the payment thereof.
7. The amount required for reinsurance of outstanding policies, estimating the same at fifty per cent. of the premiums received on all policies having not more than one year to run, and a *pro-rata* on all premiums received on risks having more than one year to run.
8. The amount of all claims against the company, and of what they consist.

*Fourth.*—The income of the company during the year, specifying:

1. The amount of premiums received, designating the amount received in this State.
2. The amount of interest money received.
3. The amount of income received from all sources, and from what the same was derived.

*Fifth.*—The expenditures during the preceding year, specifying:

1. The amount of losses paid during the year, stating how much thereof to citizens of this State.
2. The amount of dividends paid during the year.
3. The amount paid in taxes and commissions to agents.
4. The amount of all other payments and expenditures.

Which statement shall be subscribed, under oath, by the president and secretary, or other chief officers or managers of such company, and shall be renewed annually, on the 31st day of December of each year thereafter, or within thirty days thereafter; and the said Commissioner is hereby authorized to propose such additional inquiries as may, in his judgment, be necessary to elicit a full exhibit of the business and standing of any insurance company as aforesaid, transacting, or proposing to transact the business of insurance in this State.

Every company, the capital of which is composed in whole or in part of notes shall, in addition to the foregoing, exhibit a list of the notes held by such company as a part of its capital, showing the names of the makers and endorsers of each note.

Any company failing or refusing to file such statement, or refusing to answer any inquiry of the Commissioner, shall be subject to a penalty of five hundred dollars, and an additional penalty of five hundred dollars for every month thereafter that such company shall continue to transact any business of insurance. (*Laws of 1875, p. 192, § 1.*)

**19.** It shall not be lawful for any insurance company, not organized under, or incorporated by, the laws of this State, to transact any business of insurance in this State, through agents or otherwise, unless possessed of at least two hundred thousand dollars of paid-up actual cash capital; of which at least one hundred thousand dollars shall be invested in bonds of the United States, or some one or more of the States, reckoning the same at their current market value; nor until such company, in addition to the other requirements of this act, shall have filed with the Commissioner of Insurance a written instrument, duly signed and sealed, authorizing said Commissioner to acknowledge service of process for and in behalf of such company in this State, consenting that service of process, mesne or final, upon any such agent or agents, shall be taken and held as valid, as if served upon the company, according to the laws of this State, or any other State, and waiving all claim or right of error by reason of such acknowledgment of service; and any process issued by any court of record in this State, and served upon such Commissioner by the proper officer of the county in which said Commissioner may have his office, shall be deemed a sufficient process on said company. (*Ibid*, p. 194, § 2.)

**20.** Before any company incorporated by, or organized under, the laws of any foreign government shall transact any business of insurance in this State, it shall file with the Commissioner of Insurance the certificate of the Comptroller, or other chief financial officer of some other State, or of the United States, under his hand and official seal, that he holds, on deposit and in trust, for the benefit of all the policy-holders of such company in the United States, securities in which it is authorized to invest its capital stock by the laws of the State in which such deposit is made, worth at least two hundred thousand dollars, and which shall be increased in case of any depreciation in their value; *Provided*, That companies organized under the laws of any foreign government, depositing the amount of securities aforesaid with the Treasurer of this State, who shall receive the same in his official capacity, and producing and filing a certificate thereof in the manner provided by this section, shall be held to have complied with the requirements of this section, if such certificate shall state that the aforesaid deposit is for the benefit and protection of its policy-holders in the United States. (*Ibid*, p. 195, § 3.)

**21.** Whenever the Commissioner of Insurance shall have reason to suspect the correctness of any statement furnished him, or that the affairs of any company doing business in this State, whether chartered by this State or not, are in unsound condition, it shall be his duty, by himself or his deputy, or whenever he shall deem it expedient so to do, at his option, to appoint one or more persons, not officers, agents or employees of any insurance company, who, before entering upon the discharge of the duty, shall take an oath to perform faithfully and impartially the business with which they are charged, to examine into the affairs of such company; and it shall be the duty of the officers or agents of such company to cause their books to be opened for the inspection of the Commissioner, or person or persons so appointed by him, and otherwise to facilitate such examination, so far as it may be in their power to do; and for that purpose the Commissioner, or the person or persons so appointed by him, shall have power to examine, under oath, the officers or agents of any such company relative to the bus-



iness of said company; and whenever it shall appear to the satisfaction of the Commissioner, that the assets of any such company are reduced more than twenty per cent. below the capital stock required by this act, or its charter, after reserving fifty per cent. of the amount received for premiums on all risks which are unexpired, which are hereby declared unearned premiums, he shall revoke all authority to such company, or its agents, to do business in this State, and shall cause a notification thereof to be published in one or more newspapers of general circulation, and copies thereof to be mailed to each agent licensed by him to transact business for said company; and the agents of such company are, after such notice, required to discontinue the issuing of any new policies, or the renewal of any previously issued. The necessary expenses of such examination shall be certified to by the Commissioner and paid by the company examined. (*Ibid*, § 4.)

**22.** Whenever any insurance company, as provided in section 1, shall have fully complied with all the requirements of this act, and the Commissioner is satisfied that the affairs of such company are in a sound condition, he shall issue certificates of authority to such persons as such company may designate, authorizing them to transact the business of insurance for and in behalf of such company in this State, which certificates shall be renewed annually in January of each year. (*Ibid*, p. 196, § 5.)

**23.** It shall not be lawful for any person or persons to act as agent, or solicit risks, or in any way, directly or indirectly, to transact the business of insurance for and in behalf of any company, whether organized under or incorporated by the laws of this State or not, without first obtaining a certificate of authority from the Commissioner of this State so to do, which certificate shall state that said company has fully complied with all the requirements of this act applicable to such companies, and depositing a certified copy of such license in the office of the Clerk of the county in which the office or place of business of such agent or agents may be established; and whoever shall, directly or indirectly, aid in transacting the insurance business of any such company without first receiving such certificate of authority, or having received such certificate of authority shall, after receiving from such Commissioner notice of the revocation thereof, continue to act as agent for any such company, shall forfeit and pay to the State for each offense the sum of one hundred dollars. (*Ibid*, § 6.)

**24.** The term company, used in this act, shall embrace and include every company, corporation, association, or partnership, organized for the purpose of transacting the business of insurance, other than life insurance. (*Ibid*, p. 197, § 7.)

**25.** Each and every company organized for any of the purposes named in this act, not incorporated by or organized under the laws of this State, shall, on the 30th of June and December in each year, report, under oath of the president, and secretary, or other chief officers of such company, the total amount of premiums received from policies issued in this State within the six months next preceding, or since the last returns of such premiums were made by such company; and shall, at the same time, pay into the Treasury of this State the sum of two dollars and fifty cents upon each one hundred dollars of said premiums so ascertained, which shall be in lieu of all other taxes. And any company failing or neglecting to make such returns and payments promptly and correctly, shall forfeit and pay

to the State, in addition to the amount of said taxes, the sum of five hundred dollars; and the company so failing or neglecting for sixty days, shall thereafter be debarred from transacting any business of insurance in this State until said taxes and penalty are fully paid; and the Commissioner of Insurance shall revoke the certificates of authority granted to the agent or agents of such company to transact business in this State. Companies incorporated by this State shall, at the same time and in the same manner, pay one dollar and fifty cents upon each hundred dollars of premiums received on policies issued in this State, and be subject to the penalties provided for companies not chartered by this State. (*Ibid*, § 8.)

**26.** Whenever the existing or future laws of any other State of the United States shall require of insurance companies incorporated by or organized under the laws of this State, or of the agents thereof, any deposit of securities in such State for the protection of policy-holders, or otherwise, greater than the amount required for similar purposes from similar companies of other States by the then existing laws of this State, then, in every such case, all companies of such States establishing, or having heretofore established an agency or agencies in this State shall be, and are hereby required to make the same deposit for a like purpose with the Treasurer of this State, and to pay into the Treasury of this State for taxes, fines, penalties, license fees, or otherwise, an amount equal to the amount of such charges, and payments imposed by the laws of such State upon companies of this State and the agents thereof. (*Ibid*, § 9.)

**27.** All companies which may have received license to transact business in this State prior to the passage of this act, shall not be obliged to renew application until such license shall expire; but such companies shall be subject to examination at the discretion of the Commissioner. (*Ibid*, p. 198, § 10.)

**28.** Every company receiving from the Commissioner a certificate of authority to transact business in this State, shall pay the following fees and allowances to the Commissioner:

For filing copy of charter or deed of settlement.....	\$10 00
For filing annual statement.....	25 00
For filing any additional or supplemental statement.....	10 00
For each certificate of authority issued by him.....	3 00
For certified copy of certificate of authority.....	3 00
For copies of any paper on file or deposit in his office, per folio	20
For affixing seal of office and certifying any paper.....	1 00

(*Ibid*, § 11.)

**29.** Every penalty provided for by this act shall be sued for and recovered in the name of the State of Tennessee, by the District Attorney of the district in which such delinquency occurs; and, when sued for and collected by him, shall be paid into the State Treasury, less thirty per cent. to be paid him for his services; and in case of the non-payment of such penalty, the party so offending shall be liable to imprisonment for a period not exceeding six months, in the discretion of any court having cognizance thereof. (*Ibid*, § 12.)

**30.** It shall not be lawful for the directors, trustees or managers of any insurance company incorporated by this State to make any dividend except from the surplus profits arising from its business; and in estimating such profits, there shall be reserved therefrom a sum equal to the whole reinsurance liability of said company, as provided for in section one of this act. Any dividend made con-

trary to this act shall subject the company making the same to a forfeiture of its charter, and each stockholder receiving it to a liability to the creditors of such company to the extent of double the amount of the dividend received. (*Ibid*, § 13.)

**31.** It shall be the duty of the Commissioner of Insurance to publish annually, and as soon after the first day of January in each year as practicable, an itemized statement of the condition of each company as provided for in section one, doing business in this State. (*Ibid*, p. 199, § 14.)

### LIFE INSURANCE COMPANIES.

**32.** It shall not be lawful for any Life Insurance Company, chartered by the United States or any State of the United States, or any foreign government, or any agent or agents thereof, or by the laws of Tennessee, to transact any business of life insurance in this State, without first procuring a license therefor from the Bureau of Insurance, and a certificate of authority for each agent employed. (*Laws of 1875*, p. 76, § 1.)

**33.** Any such company applying for such license, shall present to the Insurance Commissioner a sworn statement of the president and secretary thereof, exhibiting—

*First.*—The name and parent office of the company.

*Second.*—The financial position of such company on the thirty-first day of December of the year preceding the date of application.

*Third.*—The amount of the capital stock of the company, and what part of the same has been paid in cash, and what part of the same has been paid in notes of the stockholders; together with a full exhibit of the assets and liabilities—in what the former consists, and what the latter, and when and how due.

*Fourth.*—The income and expenditures for the year preceding.

*Fifth.*—A copy of the charter of such company, certified by authority, and this statement shall be filed with the Insurance Commissioner. (*Ibid*, § 2.)

**34.** It shall be the duty of the Insurance Commissioner, if the statement and exhibit of any company, chartered by the United States, or any other State, or foreign government should show it to be in a sound and solvent condition, to issue thereupon a license to transact the business of life insurance within the limits of the State, upon the terms and conditions set forth in this section, and those hereinafter provided, viz.: Whenever the existing or future laws of any other State of the United States shall require of the life insurance companies chartered by this State, and having agencies in such other State, or of the agents thereof, any deposits or security in such State, for the protection of policy-holders, or otherwise, or any payment for taxes, penalties, license, fees, or otherwise, greater than the amount required for such purpose from similar companies of other States by the existing laws of this State, then, and in every such case, all companies of such States establishing, or having heretofore established an agency or agencies in this State, shall be, and are hereby required to make the same deposits in bonds of the State of Tennessee, for a like purpose with the Comptroller of the Treasury of this State, or with the similar officer of the State in which the parent office of the company may exist, and to pay to the Comptroller of this State, for taxes, penalties, license, and fees of

all kinds, an amount equal to the amount of such charges and payments imposed by the laws of such State upon companies of this State and the agents thereof; and all companies chartered by the United States, and by States having no laws requiring deposits of security, and by foreign governments, shall deposit with the Insurance Commissioner, to be kept in the custody of the Comptroller of the Treasury, a certificate duly attested by the proper officer under the laws of the State or government in which such company or association is incorporated or organized, that securities to the actual value of at least one hundred thousand dollars, have been deposited with him to secure the policy-holders, consisting of the bonds of this State, the United States, or of the State in which such company is organized, or of notes or bonds, secured by mortgage on real estate, for double the amount, and stating the time and amount of each of such bonds, notes or stocks, and that he is satisfied they are worth one hundred thousand dollars. (*Ibid*, p. 77, § 3.)

**35.** No life insurance company or association, organized or chartered under the laws of this State, shall transact business, unless within three months from the passage of this act it shall have deposited with the Insurance Commissioner, for the security of its policy-holders, the sworn statements of the president, vice-president, and the secretary or actuary of such company or association, that they have invested in the bonds of this State or of the United States, or in notes or bonds, secured by mortgage on real estate, for double the amount loaned, one hundred thousand dollars, always subject to the inspection of the Insurance Commissioner at any time he may deem proper to examine them; and should the investments of any company or association doing business of life insurance in this State, be less than one hundred thousand dollars at any time after such certificate is given, it shall be reported to the Insurance Commissioner in thirty days thereafter, under penalty of five hundred dollars for each month said report is withheld. (*Ibid*, p. 78, § 4.)

**36.** Every life insurance company chartered by this State, and all companies chartered by the United States, or under foreign governments, or other States of the United States, to which the reciprocal provisions of section 10 of this act do not apply, and to any one of them by the laws of the State in which chartered, there may be no license, fees, or taxes required, shall pay to the Comptroller of the Treasury, in lieu all other taxes, a tax of one and a half per cent. on gross premium receipts, payable on the first days of January and July of each year, on sworn statements of president or secretary of the company. (*Ibid*, § 5.)

**37.** The Insurance Commissioner shall require annual sworn statements, on the 31st day of December, or within thirty days thereafter, of each year, of every company, home and foreign, transacting life insurance business in this State; said statement to contain the full exhibit of facts described in section 2 of this act, and to be made by the president and secretary thereof. (*Ibid*, § 6.)

**38.** Any companies to which the reciprocal feature of this act applies, shall pay such taxes as are now assessed by law on all insurance companies, and such fees as may be charged by the State in which chartered or organized. (*Ibid*, p. 79, § 7.)

**39.** Every company, home and foreign, transacting the business of life insurance in this State, shall be required to pay annually the sum of fifty dollars to the Insurance Commissioner, for the labor



of examining and furnishing blanks for the sworn statement and exhibit thereof, and the sum of six dollars annually for each certificate of authority for every agent employed. (*Ibid*, § 8.)

**40.** It shall be the duty of the Insurance Commissioner, whenever he shall have good reason to suspect that the affairs of any life insurance company doing business in this State, whether chartered by the laws of this or any other State, are in an unsound condition, to require of said company or association a special statement of its affairs; and if said Commissioner shall not be satisfied that the affairs of said company or association are in a safe condition, or if any three stockholders or policy-holders of such company or association shall make affidavit that they believe special statement or any annual statement to be incorrect or untrue, setting forth in what respect, and on what grounds they believe the same to be untrue, then the said Commissioner shall make a personal examination of the affairs of said company, or cause one to be made by some disinterested person or persons specially appointed by him for that purpose; and he or they shall have power to examine, under oath, the officers or agents of any companies in relation to the business of said company; and it shall be the duty of the officers and agents of any life insurance company or association doing business in this State to cause their books to be opened for such inspection or examination as may be necessary; and if it shall appear that the affairs of such company are in an unsound condition, the Commissioner shall revoke the certificate of authority granted to such company, and cause a notice to be published of such revocation, at least three times, in some newspaper in the city of Nashville; and the agent or agents of such company or association, after such notice, are required to discontinue the issuing of any new policies or the collection of any premiums. (*Ibid*, § 9.)

**41.** Every company doing a life insurance business in Tennessee, whether chartered by the laws of Tennessee or any other State or foreign country, shall be required, for the better protection of policy-holders, to keep at all times, in addition to the sum necessary to reinsure all outstanding risks calculated upon the American Experience Table of Mortality, at four and a half per cent. on mutual or participating policies, and at six per cent. on stock or non-participating policies, the sum of one hundred thousand dollars, invested in bonds, securities or mortgages—(if mortgages on real estate, worth double the sum loaned)—to be certified as safe and worth this amount by the Insurance Commissioner of the State in which the company was organized. (*Ibid*, § 10.)

**42.** Whenever the Insurance Commissioner shall have become satisfied, by examination or otherwise, that the standard of solvency set forth in section ten of this act has become impaired, it shall be his duty to suspend the company, whether home or foreign, from the transaction of any new business until said impairment has been made good; and if such impairment exists in the case of a foreign company for six months from date of first examination, then the exclusion of the company shall be final. If in case of a company organized under the laws of Tennessee, then it shall be the duty of the Insurance Commissioner to file a bill in some court of equity jurisdiction in the State against said company, its stockholders, policy-holders, and creditors generally, for the purpose of winding up the affairs of such company, or of affording such protection to

the interests of all as in the opinion of the court the circumstances demand. (*Ibid*, p. 80, § 11.)

**43.** Any such company or association desiring to transact any such aforesaid business by any agent or agents in this State, shall file with the Insurance Commissioner a power of attorney, authorizing the Secretary of State aforesaid, to acknowledge service of process, for and in behalf of such company, at any and all times after a company has once complied with the laws of Tennessee, and been regularly admitted, even though such company may subsequently have retired from the State or been excluded. And it is hereby made the duty of the said Secretary of State, within five days after such service of process by any claimant, to forward by mail an exact copy of such notice to the company. (*Ibid*, § 12.)

**44.** The Insurance Commissioner shall cause to be prepared, and furnished to every company and association to which this act shall apply, printed forms of the statement herein required, and he may make such changes from time to time, and in the statements required, as shall seem to him best adapted to elicit from said companies or associations a true exhibit of their condition. (*Ibid*, § 13.)

**45.** All acts and parts of acts inconsistent with the provisions of this Act, are hereby repealed; *Provided*, That nothing contained in this Act shall be so construed as to prevent the repeal or amendment of the same, or any section thereof, by the present or any future general assembly of this State. (*Ibid*, p. 81, § 14.)

#### LIFE INSURANCE FOR THE BENEFIT OF MARRIED WOMEN AND CHILDREN.

**46.** Any life insurance effected by a husband on his own life shall, in case of his death, inure to the benefit of his widow and children; and the money thence arising shall be divided between them according to the law of distributions, without being in any manner subject to the debts of the husband, whether by attachment, execution, or otherwise. (*Statutes*, 1871, § 2478.)

**47.** Whenever a married woman causes a life insurance to be effected upon her husband's life, it shall in no case be subject to execution or attachment for the debts of the husband, but shall inure to the benefit of the widow and children. (*Ibid*, § 2479.)

#### ARSON AND INCENDIARISM.

**48.** Any person who willfully and maliciously burns the house or out-house of another is guilty of arson, and shall be punished by confinement in the penitentiary not less than five, nor more than twenty-one years. (*Ibid*, § 4666.)

**49.** Every person who willfully and maliciously sets fire to, or burns any house or building in a town or city, or procures the same to be done, shall be punished as for arson. (*Ibid*, § 4667.)

**50.** Every person who shall willfully and maliciously burn or set fire to any house, barn, stable, or other valuable building, or any building containing valuable property therein; or any stack or shocks of grain, fodder, straw, or hay; or any valuable bridge, boat, or water-craft, shall be imprisoned in the penitentiary not less than two, nor more than twenty-one years. (*Ibid*, § 4668.)

**51.** If any person set fire to any material, or thing, with intent to burn any building, boat, or other thing mentioned in the foregoing sections of this article, he shall be confined in the penitentiary not less than one, nor more than five years. (*Ibid*, § 4669.)

**52.** If any person willfully burn any building, goods, wares, merchandise, or other chattels which are insured against loss or damage by fire, or willfully cause or procure the same to be burned, with intent to injure the insurer, whether such person be the owner of the property or not, he shall be punished by imprisonment in the penitentiary not exceeding ten years. (*Ibid*, § 4670.)

**53.** Any person who willfully casts away, burns, sinks, or otherwise destroys any steamboat or other vessel of the value of five hundred dollars or upwards, including cargo, with intent to injure the owner of such vessel, or of any property on board the same, or an insurer of such vessel or property, shall, on conviction, be imprisoned in the penitentiary not less than five, nor more than fifteen years. (*Ibid*, § 4671.)

### EMBEZZLEMENT.

**54.** Any officer, agent, or clerk of any incorporated company, or any clerk or agent of a copartnership or private person, except apprentices and other persons under the age of eighteen years, who embezzles or fraudulently converts to his own use, any money or property of another, which has come to his possession, or is under his care by virtue of such employment, shall, on conviction, be punished by confinement in the penitentiary not less than five, nor more than twenty years. (*Ibid*, § 4708.)

**55.** For General Provisions relating to Corporations see Statute Laws, 1871, pp. 742-746; Laws of 1873, pp. 166, 167.

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# INSURANCE STATUTES OF TEXAS.

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*Revised by Hon. Stephen H. Darden, Comptroller of State.*

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## FIRE AND MARINE INSURANCE COMPANIES.

**1.** Hereafter, when any number of persons associate themselves together for the purpose of forming an insurance company, for any other purpose than life insurance, they shall publish a notice of such intention once in each week, for four weeks, in some public newspaper in the county in which such insurance company is proposed to be located: and they shall also make a certificate under their hand, specifying the name assumed by such company, and by which it shall be known, the object for which said company shall be formed, the amount of its capital stock, and the place where the principal office of said company shall be located, which certificate shall be acknowledged before and certified by some notary public or Clerk of Court of Record and forwarded to the Comptroller of State, who shall submit the same to the Attorney-General of State for examination, and if it shall be found by the Attorney-General of State to be in accordance with the provisions of this act, and not in conflict with the constitution and laws of the United States and this State, he shall make certificate of the facts, and return it to the Comptroller of State, who shall reject the name or title applied for by any company when he shall deem the same too similar to any one already appropriated by any other company, or likely to mislead the public. (*Act approved February 17, 1875, § 1.*)

**2.** When the said certificate of the said company shall have received the approval of the Attorney-General of State and Comptroller of State, the said company shall cause the same to be recorded as now required by law for recording articles of incorporation; and said persons, when incorporated and having in all respects complied with the provisions of this act, are hereby authorized to carry on the business of insurance, as named in such certificate of incorporation, and by the name and style provided therein, and shall be deemed a body corporate with succession, they and their associates, successors and assigns, and shall be capable of suing and being sued, and maintaining any action to final judgment and execution, and shall in law be capable of purchasing, holding, improving and conveying any estate, real, personal or mixed, for the use of the corporation, as hereinafter provided. (*Ibid, § 2.*)

**3.** No joint-stock company shall be incorporated under the provisions of this act, with a smaller capital than one hundred thousand dollars, as may be specified in the certificate of incorporation, which stock shall be divided into shares of one hundred dollars each. (*Ibid, § 3.*)

**4.** Having published the notice and filed publisher's affidavit of the publication thereof with the Comptroller of State, together

with the certificate, as required by the first section of this act, the persons named in the certificate of incorporation, or a majority of them, shall be commissioned to open books for the subscription of stock to the company, at such times and places as to them may seem convenient and proper, and shall keep the same open until the full amount specified in the certificate is subscribed. (*Ibid*, § 4.)

5. The affairs of any company organized under the provisions of this act shall be managed by not more than thirteen nor fewer than seven directors, all of whom shall be stockholders. Within thirty days after the subscription books shall have been filled, a majority of the subscribers shall hold a meeting for the election of directors, each share entitling the holder thereof to one vote; and the directors there elected shall continue in office until their successors have been duly chosen and have accepted the trust. (*Ibid*, § 5.)

6. It shall be lawful for any insurance company organized under this act to invest its capital in bonds and mortgages on unincumbered real estate, within the State of Texas, worth double the sum loaned thereon, exclusive of buildings, unless such buildings are insured in some responsible company or companies, and the policy or policies transferred to said company, and also in stocks of this State or stocks or treasury notes of the United States, in the stocks and bonds of any county or incorporated city in this State, which may have been heretofore authorized to be issued by the Legislature of this State, and to lend the same, or any part thereof, on the security of such stock, or lands, or treasury notes, or upon bonds and mortgages as aforesaid, or upon bills of exchange, or other commercial notes and bills, and not otherwise; and to change and reinvest the same in like securities as occasion may from time to time require; but any surplus money over and above the paid-up capital stock of any such company organized under this act or incorporated under any law of this State, may be invested in or loaned upon the pledge of public stocks of the United States, or any of the States, or stocks, bonds, or other evidences of indebtedness of any solvent, dividend-paying institutions, incorporated under the laws of this State or the United States, and in bills of exchange, or other commercial notes or bills, except their own stock; *Provided, always*, That the current market value of such stock, bonds, or other evidences of indebtedness, shall be at all times during the continuance of such loans at least twenty per cent. more than the sum loaned thereon. (*Ibid*, § 6.)

7. Upon receiving notification that the requirements of the preceding sections have been complied with, the Comptroller of State shall make an examination, or cause one to be made by some disinterested person, officially appointed by him for that purpose; and if it shall be found that the capital herein required by the company named, according to the nature of the business proposed to be transacted by such company, has been paid in and possessed by it, in money, or in such stocks, notes, bonds or mortgages, as are required by the third and sixth sections of this act, then he shall so certify; and if the examination be made by other than the Comptroller, then the finding shall be certified under oath. The corporators or officers of any such company, or proposed company, contemplated by this act, shall be required to certify, under oath, to the Comptroller of State, that the capital exhibited to the person making the examination directed in this section, was *bona fide* prop-

erty of the company so examined; the certificates above contemplated shall be filed in the office of said Comptroller, who shall thereupon deliver to such company a certified copy of the same, with his written permission for them to commence business as proposed in their written certificate of incorporation, which, on being placed on record in the office of the Recorder of the county in which the company is to be located, by the Recorder, in a book prepared by him for that purpose, shall be their authority to commence business and issue policies; and such certified copy of said certificate may be used in evidence for or against said company with the same effect as the originals. (*Ibid*, § 7.)

8. It shall be lawful for any company organized under this act or doing business in this State, to insure houses, buildings, and all other kinds of property against loss or damage by fire, and to make all kinds of insurance on goods, merchandise, or other property, in the course of transportation, whether on land or water, or any vessel afloat, wherever the same may be; to lend money on bottomry or *respondentia*, and to cause itself to be insured against any loss or risk it may have incurred in the course of its business and upon the interest which it may have in any property by means of any loan or loans which it may have made on mortgage, bottomry or *respondentia*, and generally to do and perform all other matters and things proper to promote these objects. And no company organized under this act, or transacting business in this State, shall expose itself to loss on any one risk or hazard, except when insuring cotton in bales, to an amount exceeding ten per cent. of its paid up capital, unless the excess shall be insured by the same in some other good and reliable company. (*Ibid*, § 8.)

9. The annual meeting for the election of directors shall be holden during the month of January, as the by-laws of the company may direct; *Provided, however*, That if for any cause the stockholders shall fail to elect at any annual meeting, then they may hold a special meeting some day subsequent thereto for that purpose by giving thirty days' notice thereof in some newspaper in general circulation in the county in which the principal office of the company shall be located; and the directors chosen at any such annual or special meeting shall continue in office until the next annual meeting, and until their successors duly elected shall have accepted. (*Ibid*, § 9.)

10. The directors shall choose by ballot a president from their own number, and shall fill all vacancies which shall arise in the board or in the presidency thereof, and the board of directors thus constituted, or a majority of them, when convened at the office of the company, shall be competent to exercise all the powers vested in them by this act. (*Ibid*, § 10.)

11. The directors of any such company shall have power to appoint a secretary and any other officer or agent necessary for transacting the business of the company, paying such salaries and taking such securities as they may deem reasonable; they may ordain and establish such by-laws and regulations, not inconsistent with this act or with the Constitution and laws of the United States and of this State, as shall appear to them necessary for regulating and conducting the business of the company; and it shall be their duty to keep full and correct entries of their transactions, which shall at all times, during business hours, be open to the inspection of such persons as are entitled thereto. (*Ibid*, § 11.)



**12.** All policies or contracts of insurance made or entered into by the company may be made either with or without the seal of said company; but said policies shall be subscribed by the president or such other officer as may be designated by the directors for that purpose, and shall be attested by the secretary thereof. (*Ibid*, § 12.)

**13.** Transfers of stock may be made by stockholder or his legal representative, subject to such restrictions as the directors shall from time to time establish in their by-laws. (*Ibid*, § 13.)

**14.** Whenever any company organized under this act shall in the opinion of the directors thereof, require an increased amount of capital, they shall, if authorized by the holders of a majority of the stock to do so, file with the Comptroller of State a certificate setting forth the amount of such desired increase, and thereafter such company shall be entitled to have the increased amount of capital fixed by said certificate; and the examination of securities composing the capital stock thus increased shall be made in the same manner as provided in section seven of this act, for the capital stock first paid in. (*Ibid*, § 14.)

**15.** It shall not be lawful for the directors, trustees or managers of any insurance company organized under this act or incorporated under any law of this State, to make any dividend except from the surplus profits arising from their business, and in estimating such profits there shall be reserved therefrom a sum equal to forty per cent. of the amount received as premiums on unexpired fire risks and policies, and one hundred per cent. of the premiums received on unexpired marine and inland transportation risks, which amount so reserved is hereby declared to be unearned premiums; and there shall also be reserved the amount of all unpaid losses, whether adjusted or unadjusted, all sums due the corporation on bonds and mortgages, bonds, stocks and book accounts of which no part of the principal or interest thereon has been paid during the year preceding such estimate of profits, and upon which suit for foreclosures or collections has not been commenced, or which after judgment has been obtained thereon, shall have remained more than two years unsatisfied and upon which interest shall not have been paid; and in case of any such judgment, the interest due or accrued thereon and remaining unpaid shall also be reserved. Any dividends made contrary to these provisions shall subject the company making it to a forfeiture of their charter. (*Ibid*, § 15.)

**16.** No company organized under this act shall purchase, hold or convey any real estate, save for the purpose and in the manner herein set forth, to wit: 1st. Such as shall be requisite for its convenient accommodation in the transaction of its business; 2d. Such as shall have been mortgaged to it in good faith by way of security for loans previously contracted or for money due; or, 3d. Such as shall have been conveyed to it in satisfaction of debts previously contracted in the legitimate business of the company or for money due; or, 4th. Such as shall have been purchased at sales or upon judgments, decrees, or mortgages obtained or made for such debts. (*Ibid*, § 16.)

**17.** It shall be the duty of the president or of the vice-president and secretary of each company organized under this act, or incorporated under any law of this State, or doing business in this State, annually, on the first day of January of each year, or within sixty days thereafter, to prepare under oath and deposit in the office of the Comptroller of State, a full, true and complete statement of

the condition of such company on the last day of the month of December preceding, which last statement shall exhibit the following items and facts in the following forms, viz.:

*First.*—The name of the company, and where located.

*Second.*—The name of the officers.

*Third.*—The amount of capital stock of the company.

*Fourth.*—The amount of capital stock paid up.

*Fifth.*—The property or assets held by the company, specifying the value, as near as may be, of the real estate owned by such company.

The amount of cash on hand and deposited in banks to the credit of the company, and in what bank the same is deposited.

The amount of cash in the hands of agents and in course of transmission.

The amount of loans secured by first mortgages on real estate, with the rate of interest thereon, specifying the location of such real estate, and its valuation.

The amount of all other bonds and loans, and how secured, with the rate of interest thereon.

The amount due the company on which judgments have been obtained

The amount of stocks of this State, of the United States, of any incorporated city of this State, and of any other stock owned by the company, specifying the amount, numbers of shares, and par and market value of each kind of stock.

The amount of stock held by such company as collateral security for loans, with amount loaned on each kind of stock, its par and market value.

The amount of interest actually due and unpaid.

All other securities and their value.

*Sixth.*—The liabilities of such company, specifying the losses adjusted and due.

Losses adjusted and not due.

Losses unadjusted.

Losses in suspense, and the causes thereof.

Losses resisted and in litigation.

Dividends either in scrip or cash, specifying the amount of each declared, but not due.

Dividends declared and due.

The amount required to reinsure all outstanding risks on the basis of forty per cent. of the premium on all unexpired fire risks, and one hundred per cent. of the premiums on all unexpired marine and inland transportation risks.

The amount due banks or other creditors.

The amount of money borrowed, and the security therefor.

All other claims against the company.

*Seventh.*—The income of the company during the previous year, stating the amount received for premiums, specifying separately fire, marine, and inland transportation premiums, deducting re-insurance, the amount received for interest and from all other sources.

*Eighth.*—The expenditures during the preceding year, specifying the amount of losses paid during said term, stating how much of the same accrued prior, and how much subsequent to the date of the preceding statement, and the amount at which losses were estimated in such preceding statement.

The amount paid for dividends. The amount paid for return premiums, commissions, salaries, expenses, and other charges of officers, agents, clerks, and other employees.

The amount paid for local, State, national, internal revenue, and other taxes and duties.

The amount paid for all other expenses, including printing, stationery, rents, furniture, etc.

*Ninth.*—The largest amount insured in any one risk.

*Tenth.*—The amount of risks written during the year then ending.

*Eleventh.*—The amount of risks in force having less than one year to run.

*Twelfth.*—The amount of risks in force having more than one, and not over three years to run.

*Thirteenth.*—The amount of risks having more than three years to run.

*Fourteenth.*—The following question must be answered, viz.: Are dividends declared on premiums received for risks not terminated?

The Comptroller of State shall withhold the certificate of authority from any such company neglecting or failing to comply with the provisions of this section. (*Ibid*, § 17.)

18. The Comptroller of State is hereby authorized and empowered to address any inquiries to any insurance company in relation to its doings and condition, or any other matter connected with its transactions which he may deem necessary for the public good or for a proper discharge of his duties; and it shall be the duty of any company so addressed to promptly reply in writing thereto. (*Ibid*, § 18.)

19. It shall not be lawful for any insurance company, association or partnership, organized or associated for any of the purposes specified in this act, incorporated by or organized under the laws of any other State of the United States, or any foreign government, directly or indirectly to take risks, or transact any business of insurance in this State, unless possessed of one hundred thousand dollars of actual paid up capital, exclusive of any assets of any such company as shall be deposited in any other States or Territories for the special benefit or security of the insured therein; and any such company desiring to transact any such business as aforesaid, in this State, may be sued in any county in this State in which the cause of action or a part thereof accrued, and shall appoint one attorney in the State, and shall file with the Comptroller of State a written instrument duly signed and sealed, authorizing such attorney of such company to acknowledge service of process for and in behalf of such company in this State, consenting that such service of process, mesne or final, upon such attorney, shall be taken and held as valid as if served upon the company, and service of process may be had on any such company by delivering a copy thereof to the president, secretary, or treasurer of such company, according to the laws of this State, and waiving all claim or right of error by reason of such acknowledgment or service, and also a certified copy of their charter or deed of settlement, together with a statement, under the oath of the president or vice-president, or other chief officer, and the secretary of the company for which they may act, stating the name of the company and the place where located, the amount of its capital, with a detailed statement of the facts and items as required from companies organized under the laws of this State, as per section

seventeen hereof; and shall also file the certificate of compliance with the laws of their own State; and no agent shall be allowed to transact business for any company whose capital is impaired by the liabilities, as stated in section seventeen of this act, to the extent of twenty-five per cent. thereof, while such deficiency shall continue. (*Ibid*, § 19.)

**20.** It shall not be lawful for any agent or agents to act for any insurance company or companies referred to in this act, in taking risks or transacting business of insurance in this State, without procuring from the Comptroller of State a certificate of authority, stating that such company has complied with all the requisitions of this act. (*Ibid*, § 20.)

**21.** The statements and evidences of investments required of foreign companies as above, shall be renewed annually in such manner and form as required by this act, and as said Comptroller may direct, with any additional statement of the amount of the losses incurred or premiums received in this State, during the preceding period, so long as such agency continues; and the said Comptroller, on being satisfied that the capital, securities and investments remain secure, as hereinbefore provided, shall furnish a renewal of his certificate as aforesaid. (*Ibid*, § 21.)

**22.** It shall be the duty of the Comptroller of State upon receiving reliable information that the affairs of any insurance company, incorporated by, or doing business in this State, are in an unsound condition by impairment of capital, or otherwise, to call upon any such company for a full statement of its condition, and in case of refusal or neglect of any company to answer the requisition, or, if the exhibit be unsatisfactory to him, he shall make the examination himself, or appoint one or two persons, not officers, employees or agents of any insurance company; and it shall be the duty of the officers or agents of such company or companies to cause their books and assets to be opened for the inspection of the Comptroller or the person or persons so appointed, and otherwise facilitate such examination so far as may be in their power so to do; and for the purpose of arriving at the truth in such cases the Comptroller, or person or persons so appointed by him, shall have power to examine, under oath, the officers or agents of any company or others, if necessary, relating to the business and condition of said company; and whenever the Comptroller shall deem it best for the interest of the public so to do, he shall publish the result of such investigation in one or two papers of this State, one of which shall be published in the county in which the principal office of said company is located; and whenever it shall appear to the said Comptroller from such examination, that the assets and funds of any company incorporated in this State are reduced or impaired by the liabilities of said company, as described under the head of liabilities in the statement required by this act, more than twenty-five per cent. below the paid-up capital stock required by this act, he shall direct the officers thereof to require the stockholders to pay in the amount of such deficiency within sixty days from the date of such requisition. Should said company decline or willfully neglect to make good said deficiency he shall communicate the fact to the Attorney-General of State, whose duty it shall then become to apply to the district court, or, if in vacation, to one of the judges thereof, for an order requiring said company to show cause why their business should not be closed; and the court or judge, as the case may be, shall thereupon proceed



to hear the allegations and proofs of the respective parties; and in case it shall appear to the satisfaction of said court or judge that the assets and funds of said company are not sufficient as aforesaid, or that the interest of the public require it, the said court or judge shall decree a dissolution of said company, and a distribution of its effects; the said court or judge shall have power to refer the application of the Attorney-General of State to a referee, to inquire into and report upon the facts stated [t]herein; and if the Comptroller, upon examination, is satisfied that the affairs of any insurance company doing business in this State, and not organized under its laws, are in an unsound condition, he shall revoke the certificate granted in behalf of such company, and shall cause the notification thereof to be published in two newspapers in general circulation, published in this State, one of which shall be published in the county where the principal office of such company is located; and the agent or agents of such company are, after such notice, required to discontinue the issuing of any new policy, or the renewal of any previously issued. For such examination, ordered by the Comptroller, under this act, there shall be allowed to the person or persons making such examination the amount of ten dollars per day, not to exceed in all two hundred and fifty dollars, together with actual traveling expenses, to be paid, on the Comptroller's certificate, by the company which is the subject of such investigation. (*Ibid*, § 22.)

**23.** Any company receiving the aforesaid requisition from the said Comptroller, shall forthwith call upon its stockholders for such amounts as will make its paid-up capital equal to the amount filed by this act, or the charter of said company; and in case any stockholder shall refuse or neglect to pay the amount so called for, after notice personally given, or by advertisement, in such time and manner as said Comptroller shall approve, it shall be lawful for the said company to require the return of the original certificate of stock held by such stockholder, and in lieu thereof, to issue new certificates for such number of shares as the said stockholders may be entitled to, in the proportion that the ascertained value of the funds of the said company may be found to bear to the original capital of the said company, the value of such shares for which new certificates shall be issued to be ascertained under the direction of the Comptroller, the said company paying for the fractional part of shares. And it shall be lawful for the directors of such company to create new stock and dispose of the same, and to issue new certificates therefor, to an amount sufficient to make up the original capital of the company; and in the event of any additional losses accruing upon new risks taken upon the expiration of the period limited by the said Comptroller in the aforesaid requisition for the filling up of the deficiency in the capital of such company, and before said deficiency shall have been made up, the directors shall be individually liable to the extent thereof. (*Ibid*, § 23.)

**24.** There shall be paid by every company, association, person or persons, agent or agents, to whom this act shall apply, the following fees: for filing and examination of the first application of any company and issuing of the certificate of license thereon, twenty-five dollars; for filing each annual statement herein required, ten dollars; for each certificate of authority, one dollar; for every copy of paper filed as herein provided, the sum of ten cents per folio, and fifty cents for certifying the same and affixing the seal of office thereto, which fees shall go to the Comptroller for the pay-

ment of the salary of an insurance clerk; and the Comptroller is hereby authorized and empowered, upon the passage of this act, to appoint a suitable person experienced in the business of insurance as clerk of the Insurance Department, whose duty it shall be, under the supervision and direction of the Comptroller, to attend to all matters in detail connected with insurance in this State, and said clerk shall receive in full of all compensation for his services the fees (exclusive of taxes) required to be paid by insurance companies under this act. (*Ibid*, § 24.)

**25.** When, by the laws of any other State, any taxes, fines, fees for certificates of license, penalties, deposits of money or of securities, or other obligations or prohibitions, are imposed upon companies of this State, as a condition prior to doing business in such other State, the same obligation shall be imposed upon all insurance companies of such other State doing business in this State; and such companies required to make deposits in this State are likewise required to make said deposit either in the bonds of the State of Texas or in the currency of the United States. (*Ibid*, § 25.)

**26.** It shall be the duty of every such insurance company doing business in this State, organized under the laws of this State or any other State or country, to publish once annually, in two newspapers of general circulation, one of which newspapers shall be published at the capital of the State (and in case of companies organized in the State of Texas, one of which shall be published in the county where the principal office is located), a certificate from the Comptroller of State that such company has in all respects complied with the laws of this State relating to insurance. (*Ibid*, § 26.)

**27.** It shall be the duty of the Comptroller of State to cause to be prepared and furnished to each of the companies organized under the laws of this State, and to attorneys or agents of companies incorporated by other States and foreign governments, who may apply for the same, printed forms of statements required by this act, and he may from time to time make such changes in the form of these statements as shall seem to him best adapted to elicit from the companies a true exhibit of their condition in respect to the several points hereinbefore enumerated. (*Ibid*, § 27.)

**28.** It shall be the duty of the Comptroller of State to cause the information contained in the statements required of the companies organized in this State, to be arranged in tabular form, and prepare the same in a single document for printing, and submit the same to the legislature, as a portion of his regular report to that body. (*Ibid*, § 28.)

**29.** Should any insurance company fail or neglect to pay off and discharge any execution issued upon a valid judgment against such company within thirty days after notice of the insurance thereof, then and in that event, the certificate of authority of said company to transact business of insurance, shall be revoked, canceled and annulled, and said company shall be prohibited from transacting business of insurance in this State until said execution be satisfied. (*Ibid*, § 29.)

**30.** Any insurance company incorporated by this or any other State, or foreign government, issuing policies of insurance in this State without first obtaining a certificate of authority as provided in this act, or making any false return, or violating any of the provisions of this act, shall be subject to a fine of not less than five-

hundred dollars or more than one thousand dollars. Any person or agent transacting the business of insurance, whether as agent, solicitor or broker, without the certificate of authority as before provided, or violating any of the provisions of this law, shall be subject to a fine of not less than five hundred dollars, nor more than one thousand dollars, and imprisonment of not less than three or more than six months. (*Ibid*, § 30.)

**31.** It shall not be lawful for any person or persons to act within this State as agent or otherwise, in prosecuting or receiving applications for life insurance, or in any manner to aid in the transaction of the business of any life or health insurance company incorporated in this State or out of it, without first procuring a certificate of authority from the Comptroller of the State; and before obtaining such certificate, such company, association, individual, agent or agents, shall furnish the Comptroller with a statement, under oath, of the president or secretary of said company, association or individual, for which he or they may act, which statement shall show:

1. The name and locality of the company or association.
2. The amount of its capital stock.
3. The amount of its capital stock paid up.
4. The assets of the company, including, first, the amount of cash on hand and in the hands of agents or other persons; second, real estate unincumbered; third, the bonds owned by the company or association, and how they are secured, with the rate of interest thereon; fourth, debts due to the company secured by mortgage; fifth, debts otherwise secured; sixth, debts for premiums; seventh, all other moneys or securities.
5. The amount of liabilities due or not due to banks or other creditors of the company or association.
6. Losses adjusted and due.
7. Losses adjusted and not due.
8. Losses unadjusted.
9. Losses in suspense and waiting for proof.
10. All other claims against the company or association.
11. The act of incorporation of such company, association, by-laws, articles of association or partnership agreements, which statements shall be filed in the office of the Comptroller, together with a resolution under the seal of the company, signed by the president of the company, secretary, or chief officer of the association, authorizing any agent duly appointed by resolution, under the seal of the company, to acknowledge service of process for and in behalf of such company or association, consenting that service of process upon any agent shall be taken and held to be as valid as if service upon the company or association, according to the laws of this State or any other State, and waiving all claims of error by reason of such service; *Provided*, That upon the passage of this act, suits may be commenced against such company or association in any county of this State where loss has occurred by process, as in other cases served upon any authorized agent or attorney of such company, and such process may run into and be served upon such agent or attorney in any county of this State where such agent or attorney may be. (*Laws of 1874, p. 197, § 1.*)

**32.** No insurance company unincorporated or incorporated in this State, or any other State, shall transact any business of insur-

ance in this State unless such company is possessed of at least one hundred thousand dollars of actual capital invested in stocks or bonds and mortgages, or other satisfactory evidence of security, the market values of which shall not be less than one hundred thousand dollars. (*Ibid*, p. 198, § 2.)

**33.** No corporation formed under any law of this State, concerning life assurance, shall adopt the name of any existing company or association transacting the business mentioned in the first section of this act, nor any name so similar thereto as to be calculated to mislead the public. (*Ibid*, § 3.)

**34.** Upon the filing of the resolution and statement as set forth in section one of this act, and furnishing the Comptroller with full and satisfactory evidence of such investment as aforesaid, it shall be the duty of the Comptroller to issue a certificate thereof, with authority to transact business of insurance, to the company, its officers, agent or agents, applying for the same. (*Ibid*, § 4.)

**35.** It shall be the duty of the company, association, firm or individual, its officers and agents, to renew annually, or on the first day of January in each year, or within sixty days thereafter, the statement set forth in the first section of this act; and the Comptroller, on being satisfied that the capital, securities and investments remain secure as at first, shall furnish a renewal of the certificate as aforesaid. (*Ibid*, p. 5.)

**36.** No company organized under the provisions of this act shall undertake any business or risks, except as herein provided; and no company organized or incorporated by or under the laws of this State, or of any other State of the United States, or of any foreign government, transacting the business of life assurance in this State, shall be permitted or allowed to take any other kind of risks except those connected with or appertaining to making assurance on life, and the granting, purchasing and disposing of annuities and endowments; nor shall the business of life assurance in this State be in anywise conducted or transacted by any company which, in this or any other State or country, make insurance on marine, fire, inland or any other risks; *Provided*, That no company now doing business in this State, and complying with the provisions of this act shall be prevented from continuing the same. (*Ibid*, p. 6.)

**37.** Whenever the existing or future laws of any other State of the United States shall require of life insurance companies, incorporated by this State, and having agencies in other States, any deposit (of securities) in such State for the protection of policy-holders or otherwise, then, and in every such case, all companies of such State establishing, or having heretofore established, agencies in this State, shall be and are hereby required to make the same deposits for a like purpose with the Treasurer of this State. (*Ibid*, p. 199, § 7.)

**38.** No such company incorporated by, or organized under the laws of any foreign government shall transact business in this State, unless it shall first deposit, and keep deposited, with the Treasurer of this State, for the benefit of the policy-holders of said company, citizens or residents of the United States, bonds or securities of the United States, or of the State of Texas, to the amount of one hundred thousand dollars; and such deposits shall be held liable to pay the judgments of policy holders in said company, and may be so decreed by the court adjudicating the same; *Provided*,



That if such deposit has been made in any other State of the United States, under the laws thereof, in such manner as to secure equally all the policy-holders of such company, citizens and residents of the United States, no deposit shall be required in this State; but a certificate of such deposit shall be filed with the Comptroller of the State in like manner as required in the first section of this act in regard to companies organized under the laws of the United States and of other States of the United States. (*Ibid*, § 8.)

**39.** The several foreign life insurance companies, and those incorporated out of this State, in all cases where a loss occurs, and when they refuse to pay the same within the time specified in the policy, shall be liable to pay the holder of said policy, in addition to the loss, not more than twelve per. cent. on the liability of said company for said loss; also all reasonable attorney's fees for the prosecution of the case against said company; and should any such company fail to pay off and satisfy any execution that may lawfully issue on any final judgment against said company within thirty days after notification of the issuance thereof, then and in that event the certificate issued to said company shall immediately become null and void, and said insurance company shall be prohibited from transacting any business in this State until said execution shall be fully satisfied and discharged. (*Ibid*, p. 200, § 9.)

**40.** All persons violating any of the provisions of this act, on conviction thereof, before any court of competent jurisdiction in this State, shall be fined not less than five hundred dollars, nor more than one thousand dollars for each and every offense. (*Ibid*, § 10.)

### TAXATION OF INSURANCE COMPANIES.

**41.** There shall be levied on and collected from every person, firm or association of persons, pursuing any of the following named occupations, an annual tax (except where herein otherwise provided) on every such occupation or separate establishment, as follows:

From every life insurance company doing business in this State, an annual tax of five hundred dollars; and in every county in which they may do business, ten dollars. From every fire and marine insurance company doing business in this State, an annual tax of two hundred dollars; and in every county in which they may do business, five dollars; said State tax to be paid by the company to the Comptroller of Public Accounts, whose receipt under seal shall be issued to the company, certified copies of which shall be evidence of payment of State tax, and the County Treasurer's receipt shall be authority to work in any county in this State; said State tax to be assessed in the county where the principal office of such company is located, and when the principal office is located in another State, to be assessed in the county where the principal or general State agency exists. (*Laws of 1873, chap. 121, part of* § 3.)

### ARSON AND INCENDIARISM.

**42.** If any person shall willfully burn a dwelling-house or out-house, he shall be punished by confinement in the penitentiary, not

less than five, nor more than fifteen years. (*Paschal's Digest*, 1866, p. 458, *Art.* 2322.)

**43.** If any person shall willfully burn any store-house, warehouse, gin-house, mill-house, when such house does not also come within the definition of a dwelling-house, or any public building, he shall be punished, by confinement in the penitentiary, not less than four, nor more than ten years. (*Ibid*, *Art.* 2323.)

**44.** If any person shall willfully burn the capitol building of the State, the treasury building, or Comptrollers' office of the State, the executive mansion of the State, the building in which the Executive or Secretary of State shall keep their offices, or the general land office of the State, he shall be punished by confinement in the penitentiary for life. (*Ibid*, *Art.* 2324.)

**45.** If any person shall willfully burn a building other than a dwelling-house, he shall be punished, by confinement in the penitentiary, not less than three, nor more than seven years. (*Ibid*, *Art.* 2325.)

**46.** If any person shall willfully burn any public building, as enumerated and defined in this chapter, he shall be punished by confinement in the penitentiary, not less than five years, nor more than fifteen years. (*Ibid*, *Art.* 2327.)

**47.** If any person, with intent to defraud, shall willfully burn any personal property owned by himself, which shall be at the time insured against the loss or damage from fire, he shall be punished by confinement in the penitentiary, not less than two, nor more than five years. (*Ibid*, *Art.* 2335.)

#### EMBEZZLEMENT.

**48.** If any officer, agent, or clerk, of any incorporated company, or institution, or of any city, town, or county; or if any clerk, or agent, of any private person or copartnership; or if any consignee or bailee of money or property, shall embezzle or fraudulently misapply or convert to his own use, without the consent of his principal or employer, any money or property of such principal or employer, or the proceeds of such property, after sale, which shall have come to his possession, or shall be under his care by virtue of such office, agency, or employment, he shall be punished as [for larceny] according to the amount of, or value of such money or property so embezzled. (*Paschal's Digest*, 1866, p. 468, *Art.* 2421.)

**49.** For General Provisions relating to Corporations see *Paschal's Digest*, 1873, pp. 1216-1221; *Laws of 1874*, pp. 31, 32.)

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# INSURANCE STATUTES OF VERMONT.

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Revised by Hon. George Nichols and Hon. John A. Page, Insurance Commissioners.

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## INSURANCE COMPANIES AND AGENCIES.

1. All mutual fire insurance companies in this State shall be responsible for the acts and neglect of the several agents appointed by them, as between the said companies and the applicants for insurance therein, or the assured, while in the performance of their duties as the agents of said companies. (*Laws of 1874, p. 4, § 1.*)

2. All fire insurance companies, other than those chartered by the General Assembly of this State, are prohibited from taking insurance in this State, unless such company or companies shall be responsible by the laws of the State in which such company or companies are situated, or by the act incorporating such company or companies, or by a proviso to that effect inserted in their policies of insurance, for the acts and neglect of their agents as between said companies and the assured, and as between said companies and the applicants for insurance therein. (*Ibid, § 2.*)

3. If any person shall take any application, or make any survey intending to effect insurance on any property in this State, in any fire insurance company not chartered by the legislature of this State, said company not being liable for the acts and neglects of such persons, as specified in the preceding section, said person shall, upon conviction before any court proper to try the same, forfeit and pay a sum not less than seven dollars for every such offense; one-half of such penalty shall go to the person prosecuting the same, and the other half to the treasury of the town where such offense shall have been committed. (*Ibid, § 3.*)

4. Whenever application for fire insurance shall be taken or transmitted by or through a local or traveling agent of any fire insurance company, it shall in law be deemed to be the act of the said company; and such agent shall not therein be deemed to be the agent of the applicant or insured, and in all questions arising as to the facts stated in such application, the said agent shall be taken and deemed to be the agent of the insurers, and not of the insured. (*Ibid, p. 5, § 4.*)

5. There is hereby established a distinct bureau, to be known as the Insurance Bureau, which shall be charged with the execution of the laws of this State in relation to insurance. (*Ibid, § 5.*)

6. The Secretary and Treasurer of this State are hereby declared *ex officio* Insurance Commissioners. (*Ibid, § 6.*)

7. No joint stock insurance company, not organized under the laws of this State, shall be permitted or allowed to transact the business of such company in this State, unless it shall have a *bona fide* paid up capital, invested in securities readily convertible into cash, of at least one hundred thousand dollars; not less than one-

half of which shall be invested in cash securities, other than mortgages of real estate, nor unless such company shall have, in addition to such capital, assets equal in amount to all its outstanding liabilities, reckoning fifty per cent. of premiums on outstanding fire risks, the whole amount of premium on marine risks, and the premium reserve on life risks, based on the Actuaries' Table of Mortality, with interest at four per cent., as a liability; *Provided*, That the Insurance Commissioners may, at their discretion, license any company to do business in this State whose impairment of capital does not exceed twenty per cent. of the above rule; nor shall any mutual fire or life insurance company or co-operative insurance company, association or society, not organized under the laws of this State, be permitted or allowed to transact the business of such company in this State unless it possesses assets amounting to one hundred thousand dollars, invested in securities readily convertible into cash, not less than one-half of which shall be invested in cash securities other than mortgages of real estate, nor unless it possesses such assets equal to all its outstanding liabilities (including reinsurance, to be estimated as in the case of joint stock insurance companies above named, and including the amount of guaranty capital as a liability); nor until all the laws relating to insurance companies of other States, enacted by this State, shall have been complied with; *and further Provided*, That nothing herein shall be so construed as to require any mutual fire insurance company to keep on hand any cash reinsurance reserve or funds invested in securities other than their premium notes, when said premium notes amount in gross to three per centum of the amount at risk by said company. (*Ibid*, § 7.)

8. No insurance company, not organized under the laws of this State, shall do business in this State until it has filed with the Secretary of this State a written stipulation, agreeing that any legal process affecting the company, served on either of the Insurance Commissioners, shall have the same effect as if served personally on the company within this State. So long as any liabilities of the stipulating company to any resident of this State continue, such stipulation cannot be revoked or modified. Service of process according to the stipulation aforesaid shall be sufficient service on the company; a copy of such stipulation, certified by either of the Commissioners, and his certificate that process has been served on him, shall be sufficient evidence thereof. When process against or affecting an insurance company is served on the Insurance Commissioners, or either of them, it shall be served by duplicate copies, and they or he shall immediately forward by mail one copy of the same to the company at its home office, or to any person whom such company shall designate. (*Ibid*, p. 6, § 8.)

9. It shall not be lawful for any insurance company embraced in section seven to transact any insurance business in this State, unless such company shall first obtain license of the Insurance Commissioners, authorizing the company so to do. Before receiving such license, the company shall file with the Secretary of State a certified copy of its charter and by-laws, and a full statement, under oath of its president and secretary, showing the financial condition and standing of the company, in accordance with blanks furnished by him. Upon receiving such copies and statements, if the Commissioners are satisfied with the same, and that the company meets the requirements of section seven, and has complied with the requirements of section eight of this act, they shall grant such license, au-

thorizing such company to do insurance business by authorized agents, subject to the laws of this State, until the first day of April thereafter; and annually thereafter, on the first day of April such license may be renewed, so long as such company shall comply with the requirements aforesaid, and the Commissioners shall regard the company as safe, reliable, and entitled to public confidence. For each license or renewal, as above, the company shall pay to the Insurance Commissioners the sum of five dollars. (*Ibid*, p. 7, § 9.)

**10.** No person shall act as agent of any insurance company aforesaid, not organized under the laws of this State, until he shall have filed with the Secretary of State a certificate from the company or its authorized general agent, authorizing him to act as such agent, and obtained license thereon from the Commissioners so to do. Upon filing the certificate aforesaid, the Commissioners shall issue a license to such person to act as an insurance agent in this State; *Provided*, The company for which such person proposes to procure or solicit applications for insurance therein shall be authorized to do insurance business in this State, which license shall continue until the first day of April thereafter, unless, for cause, revoked in the meantime. And upon filing a certificate as aforesaid, such license may be renewed on said first day of April, and annually thereafter, and for such license and each subsequent renewal the person receiving the same shall pay to the Commissioners the sum of one dollar. If any person shall solicit or receive any risk or application for insurance, or receive money or value therefor for any insurance company or agent, without such license from the Commissioners, he shall be punished for each offense by fine not exceeding one hundred dollars; one-half to the use of the prosecutor. But any policy issued on an application thus procured, shall bind the company, if otherwise valid; *Provided, however*, That this section shall not apply to any person who only acts as clerk to any insurance company or agent. (*Ibid*, p. 8, § 10.)

**11.** Any person may be licensed by the Commissioners as insurance broker to negotiate contracts of insurance, and to effect insurance for others than himself for a compensation; and by virtue thereof he may place risks or effect insurance with any insurance company of this State, or with the agents of any insurance company who have been licensed to do an insurance business in this State, but with no other. For such license he shall pay the sum of ten dollars, which shall authorize him thus to act until the first day of April then next; and on payment of the same fee, his license may be renewed from year to year afterwards, ending annually on the first day of April. Any person without such license, assuming to act as such broker, shall forfeit not less than fifty dollars; one-half of which forfeiture shall go to the complainant, and the other half to the State Treasury; *Provided*, That any authorized insurance agent, whose payments for certificates of authority shall amount to ten dollars per annum, may act as such broker without further charge for license, and any such agents whose payments for such certificates shall have been less than ten dollars may have such license as a broker on paying such sum as will, with the sum already paid for certificates, make the sum of ten dollars. (*Ibid*, p. 9, § 11.)

**12.** The Insurance Commissioners shall be authorized at any time to examine into the condition and affairs of any insurance company not organized under the laws of this State, doing business or proposing to do business therein, or cause such examination to be

made by some person appointed by them, not interested in such company; and may in like manner examine into the business transacted by any agent of such company in this State, and may require such company or agent to produce all books or papers relating to such company or agency, and to answer in writing, under oath, all reasonable questions relating thereto; and if, in their opinion, the affairs of such company are in an unsound or failing condition, they shall revoke any license that may have been granted to such company, and all licenses that may have been granted to agents of such company, by written notice to the company, and publication of the same by six consecutive insertions in one daily or weekly newspaper in each county where such company may have had authorized agent or agents. (*Ibid*, § 12.)

**13.** Every fire insurance company not organized under the laws of this State, but doing business therein, on or before the first day of February in each year, and every life insurance company not organized under the laws of this State, but doing business therein, on or before the first day of March in each year, shall transmit to the Insurance Commissioners a statement, under oath of its president and secretary, of the whole amount of premiums received in money, or in the form of notes, credits, loans or any other substitute for money, by or on account of said company, during the year ending on the 31st day of the preceding December, for any insurance made by it on persons or property, in this State; also exhibiting its assets, liabilities, amount of capital stock actually paid in, the amount of outstanding risks, and the business, standing and affairs of the company generally, in accordance with blanks, to be furnished by the Commissioners, adapted to the business of such company, which statement shall be filed in the office of the Secretary of State; and shall pay to the Commissioners, upon filing such statement, the sum of twenty dollars, which shall be paid by said Commissioners to the State Treasurer. And for the purpose of the above statement the Commissioners shall prepare suitable blanks, proposing such interrogatories as may be necessary to ascertain the business, standing and affairs of such company, and forward duplicates of the same in the month of December in each year, to every such company; and the Commissioners may demand a like statement of its standing and affairs at any other time when, in their opinion the same may be necessary for the safety of the public. (*Ibid*, p. 10, § 13.)

**14.** When by the laws of any other State or nation any taxes, fines, penalties, licenses, fees, deposits of money or of securities, or other obligations or prohibitions are or would be imposed on life insurance companies of this State doing business in such other State or nation, or upon their agents therein so long as such laws continue in force, the same obligations and prohibitions, of whatever kind, shall be imposed upon all life insurance companies of such other States or nations doing business within this State, and their agents herein. (*Ibid*, p. 11, § 14.)

**15.** When by the laws of any other State or nation any taxes, fines, penalties, licenses, or fees, would be required to be paid to, or a deposit of money or of securities made with, the Treasurer of such other State by life insurance companies of this State, doing business in such other State or nation, so long as such laws shall continue in force, the same taxes, fines, penalties, licenses, or fees shall be paid to, and deposits of money or of securities made with, the Treasurer



of this State, by the life insurance companies of such other State or nation doing business in this State. (*Ibid*, § 15.)

**16.** Unless any judgment rendered in this State against any insurance company shall be paid within thirty days after demand made upon any agent of such company, and notice thereof given to the Insurance Commissioners by the officer holding the execution, the Insurance Commissioners may suspend the power of the company to do business in this State until it shall be paid; and if the company, or any agent therefor, shall, after notice of such suspension, issue any policy in this State during such suspension, said company and agent shall each forfeit a sum not exceeding two hundred dollars. But any policy so granted shall be valid and binding against the company. (*Ibid*, p. 12, § 16.)

**17.** All copies of charters, by-laws, certificates, appointments, and all copies of other papers required by law to be filed in the office of the Secretary of this State, made and certified by either of the Insurance Commissioners, shall in all cases be competent evidence in the courts of this State. (*Ibid*, § 18.)

**18.** Whenever the Insurance Commissioners shall have reason to believe that any insurance company embraced in section seven of this act, or any insurance company organized under the laws of this State, or any officer or agent of any of the aforesaid insurance companies, or any other person, shall have violated any law of this State, relating to such companies, officers or agents, or the business of insurance, or fail to comply with any requisition of the laws of this State relating to such companies, officers or agents, or the business of insurance, they shall forthwith report the fact with any information they may have relating thereto, to any State's Attorney in this State, who shall, if in his judgment it is advisable so to do, prosecute every such company, officer, agent or other person therefor; and any such company, officer, agent or other person, upon conviction, shall be liable for each offense to a fine not exceeding two thousand dollars and costs of prosecution. (*Ibid*, p. 13, § 19.)

**19.** The Insurance Commissioners shall biennially, on or before the first day of October, cause to be printed and laid before the legislature an abstract of the annual statements made to them by insurance companies of other States for the two years next preceding, with such statistics, general information and suggestions relating to the subject of insurance as they may think proper to insert in such report, giving the name and location of every such company; and the Secretary of State shall keep on file the charters of all such companies, and all certificates relating to the means or authority of such companies, and the name and residence of every agent licensed to do insurance business in this State, together with the certificate of the company, or general agent of such company, upon which such agents have been licensed; and they may appoint a deputy to assist them in carrying the provisions of this chapter into effect, for whose acts they shall be responsible; and the fees from agents and companies for licenses and examinations hereinbefore provided for, together with any fees they may receive for copies furnished by them, shall be in full compensation for their services as Commissioners. (*Ibid*, § 20.)

**20.** It shall be lawful for any life insurance company chartered in this State to deposit with the Treasurer of this State, or the Comptroller or chief financial officer of another State, any funds or securities of such companies which the laws of any other State or country

may require, to enable the company or companies of this State to establish agencies and prosecute the business of insurance within such other States or countries. (*Ibid*, p. 14, § 1.)

**21.** It shall be the duty of the Treasurer of this State to safely keep said securities for the benefit of all the policy-holders of such company; but companies so depositing shall at all times have the right to receive the interest or dividends upon such mortgages or stocks, or to exchange them for others of equal value. (*Ibid*, § 2.)

### MISCELLANEOUS.

**22.** Any railroad corporation shall have an insurable interest in such property as is mentioned in the preceding section (§ 78), along its route, and may procure insurance thereon, in its own name and behalf. (*General Statutes*, 1863, p. 233, § 79.)

**23.** Nothing contained in this chapter shall authorize such [limited] partnerships for the purpose of banking or insurance. (*Ibid*, p. 512, part of § 1.)

### LIFE INSURANCE FOR THE BENEFIT OF WOMEN AND CHILDREN AND OTHERS.

**24.** It shall be lawful for any married woman, by herself, and in her name, or in the name of any other third person, with his assent as her trustee, to cause to be insured, for her sole use, the life of her husband for any definite period, or for the term of his natural life; and in case of her surviving her husband, the sum or net amount of the insurance, becoming due and payable by the terms of the insurance, shall be payable to her, and for her own use, free from the claims of the representatives of her husband, or of any of his creditors; but such exemptions shall not apply when the amount of premium annually paid shall exceed three hundred dollars. (*General Statutes*, 1863, p. 472, § 19.)

**25.** In case of the death of the wife before the decease of her husband, the amount of the insurance may be made payable after death to her children, for their use, and to their guardian, if under age. (*Ibid*, § 21.)

**26.** It shall be lawful for any unmarried woman, by herself, and in her own name, or in the name of any third person as her trustee, to cause to be insured, for her sole use, the life of her father or brother for any definite period or during his natural life; and in case of her surviving such person, she shall be entitled to receive the amount of the net insurance in the same manner as in case of married women. (*Ibid*, § 22.)

**27.** Any policy of insurance heretofore or hereafter made by any insurance company on the life of any person, expressed to be for the benefit of any married woman, whether the same be effected by herself or by her husband, or by any third person in her behalf, shall inure to her separate use and benefit and that of her children, if any, independently of her husband, and of his creditors and representatives, and also independently of such third person effecting the same in her behalf, his creditors and representatives; and a trustee may be appointed by the Probate Court for the district in which such married woman resides, to hold and manage the interest

of any married woman in any such policy or the proceeds thereof. (*Ibid*, § 23.)

**28.** Where a policy of insurance is effected by any person on the life of another, expressed therein to be for the benefit of such other, or his representatives, or for that of a third person, the party for whose benefit such policy is made shall be entitled thereto as against the creditors and representatives of the person so effecting the same. (*Ibid*, § 24.)

**29.** When it is expressed in any policy of insurance by which a person insures his own life that it is made for the benefit of another person, the policy shall inure to the benefit of such other person in the same manner, and subject to the same provisions, as in case of insurance effected by one person on the life of another for the benefit of a third person. (*Ibid*, p. 473, § 25.)

### ARSON AND INCENDIARISM.

**30.** Every person who shall willfully and maliciously burn the dwelling-house of another, or any other building, or shall willfully and maliciously set fire to any building owned by himself, by means of which the life of any person shall be lost, shall suffer the punishment of death. (*General Statutes*, 1863, p. 667, § 1.)

**31.** Every person who shall willfully and maliciously burn the dwelling-house of another, or out-building adjoining thereto, or so burn any other building which shall cause the burning of such dwelling-house or out-buildings, shall be punished by imprisonment in the State prison during the term of his or her natural life, or for such shorter term as the court shall, in their discretion, deem adequate to the degree of the offense; or if any person shall willfully and maliciously burn any meeting-house, church or court-house, town-house, college, academy, jail, school-house or other building erected for public use, or any bank-house, warehouse, office, store, shop, manufactory or mill, or other house or building of another, not constituting a dwelling-house or its out-buildings, or any vessel, cutter or boat, used on any lake, river or creek in this State, or any bridge, lock, dam or flume, he shall be punished by imprisonment in the State prison not more than ten years, and be fined not exceeding one thousand dollars. (*Ibid*, § 2.)

**32.** If any person shall willfully or maliciously set fire to the dwelling-house of another, or any out-buildings adjoining thereto, or any other building, with the intent of burning such dwelling-house and out-building, or shall willfully and maliciously set fire to any combustible matter, within or in the immediate contact with such dwelling-house or other building, with a like intent of burning such dwelling and out-buildings, and shall thereby expose the same to be burned, shall be punished by imprisonment in the State prison during the term of his or her natural life, or for such shorter term as the court, in their discretion, shall deem adequate to the degree of the offense; or if any person shall willfully or maliciously set fire, with intent to burn the same, to any meeting-house, church, or court-house, college, academy, jail, school-house, or other building, erected for public use, or to any bank, warehouse, office, store, shop, manufactory, mill, barn or other building of another, not constituted a dwelling-house or its out-buildings, or to any vessel, cutter, or boat used on any lake, river or creek in this State, or to any

bridge, lock, dam or flume, or shall willfully and maliciously set fire to any combustible matter within such buildings, or in immediate contact with the same, or in immediate contact with such vessel, cutter, boat, bridge, lock, dam or flume, with a like intent of burning the same, and thereby expose the same to be burned, he shall be punished by imprisonment in the State prison not more than ten years, and be fined not exceeding one thousand dollars. (*Ibid*, § 3.)

**33.** Every person who shall willfully and maliciously burn, or cause or procure to be burned, his own dwelling-house, or any other building owned by himself, with the intent to defraud any insurance company, shall be punished by imprisonment in the State prison not more than ten years, or be fined not exceeding two thousand dollars. (*Ibid*, p. 668, § 5.)

### EMBEZZLEMENT.

**34.** Any insurance agent doing business in this State, who shall appropriate to his own use any money or substitute for money received by him as such agent, and refuse or neglect to pay over such money or substitute for money to the company or other party entitled to receive the same, for the space of thirty days after notice to make such payment, shall be deemed guilty of larceny, and upon conviction, shall be punished therefor in accordance with the laws of this State. (*Laws of 1874*, p. 12, § 17.)

**35.** For General Provisions relating to Corporations see General Statutes, 1863, pp. 472, 542-554; Laws of 1874-75, pp. 40-44.



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# INSURANCE STATUTES OF VIRGINIA.

## INSURANCE COMPANIES AND AGENCIES.

**1.** No insurance company, unless incorporated by the legislature of this commonwealth, shall make any contracts of insurance within this State until such insurance company shall have complied with the provisions of this act. (*Code of 1873, p. 366, § 19.*)

**2.** Every such insurance company shall, by a written power of attorney, appoint some citizen of this commonwealth, resident therein, its agent or attorney, who shall accept service of all lawful processes against such company in this commonwealth, and cause an appearance to be entered in any action in like manner as if such corporation had existed and been duly served with process within this State. (*Ibid, § 20.*)

**3.** A copy of such power of attorney, duly certified and authenticated, shall be filed with the Auditor of Public Accounts of this commonwealth; and copies thereof, duly certified by said Auditor, shall be received in evidence in all courts in this commonwealth. (*Ibid, § 21.*)

**4.** If any such agent or attorney shall die or resign, or be removed, it shall be the duty of such corporation to make a new appointment as aforesaid, and file a copy with the said Auditor of Public Accounts, as above prescribed, so that at all times, and while any liability remains outstanding on such insurance, there shall be within this State an attorney authorized as aforesaid; and no such power of attorney shall be revoked until after a like power shall have been given to some competent person and a copy thereof filed as aforesaid. (*Ibid, § 22.*)

**5.** Service of process upon such attorney shall be deemed to be sufficient service upon his principals. (*Ibid, § 23.*)

**6.** If any such insurance company shall make insurance as aforesaid, without complying with the requisitions of this act, the contract shall be valid. But no person shall, without a license authorized by law, act as agent for any foreign insurance company; and any person offering to insure, or who makes any contract or policy of insurance for or on behalf of any company created or incorporated elsewhere than by or in this State, or who shall procure an application to any such insurance company for any policy of insurance, or who acts as an insurance agent in behalf of any such company, or any person who shall collect the dues or premiums of any such insurance company, shall be regarded as an agent of a foreign insurance company. Any person acting as above, as any agent of any such foreign insurance company, shall pay a fine of not less than fifty dollars nor more than five hundred dollars for each offense. (*Ibid, § 24.*)

**7.** Every such company, through their agent or attorney, shall, before making, or procuring to be made, any contract of insurance

as aforesaid, give bond to the Auditor of Public Accounts, with two or more securities, to be approved by him, in the sum of not less than one thousand dollars nor more than five thousand dollars, at the discretion of the Auditor of Public Accounts, with conditions to make the annual returns required, and to pay the tax. (*Ibid*, p. 367, § 25.)

8. It shall be the duty of the Attorney-General and commonwealth's attorneys of this commonwealth, to cause the provisions of this act to be enforced. (*Ibid*, § 26.)

9. All penalties recovered for violations of the provisions of this act, shall go, one-half to the persons giving information of such violations, and one-half to the literary fund. (*Ibid*, § 27.)

10. No insurance company which has not been incorporated under the laws of the State of Virginia, shall carry on its business in this State without first obtaining a license to transact its business in the manner prescribed by law; and no such company shall receive such license until it shall have deposited with the Treasurer of the State, bonds of the State of Virginia, or of public corporations guaranteed by the State of Virginia, or bonds of the United States, or bonds of the cities of Richmond, Petersburg, Lynchburg, Norfolk, or Alexandria, or first mortgage railroad bonds of a railroad company chartered by this State, or bonds of individuals, residents of this State, executed for money loaned by said company since the third day of February, eighteen hundred and sixty-six, and secured by deed of trust on real estate in this State worth double the value of such loan or debt, together with the policies of insurance upon the property so mortgaged, approved by the said Treasurer, or bonds of municipal corporations of this State, secured by deed of trust on real estate to an amount which shall be equal to five per centum of the capital stock of the company depositing the same, such deposit being estimated at the market value thereof, at the time such deposit is made; *Provided*, That in no case shall any company receive a license to do business in this State without first making a deposit of securities according to the provisions of this act, the cash value of which shall be at least ten thousand dollars; and no company shall be required to deposit such securities to an amount exceeding in cash value, fifty thousand dollars; *Provided, further*, That the provisions of this section shall not be construed as applying to foreign insurance companies doing exclusively a marine insurance business in this State. The Treasurer shall have power to call upon any such insurance company to make good any reduction in the value of the securities deposited by it as aforesaid, so as to bring their true value up to the amount to be deposited by it, and it shall be his duty to examine all securities so deposited with him in the month of December of every year, for the purpose of ascertaining whether any of them have become depreciated. (*Ibid*, p. 367, § 28.)

11. Any such company desiring to carry on the business of insurance shall, by an agent employed to superintend or manage its business in this State, deliver, under oath, to the Treasurer, a statement of the amount of the capital stock of said company, and make with him the deposit of bonds as prescribed in the preceding section, but the bonds so deposited shall not be in sums exceeding five thousand dollars; and the Treasurer shall thereupon give to the said agent a receipt for the same, and upon the exhibition of the said receipt to a commissioner of the revenue or township assessor of the county or corporation in which an office of the said company in this

State is, or is intended to be located, and having paid the specific license tax which may be imposed thereon, a license shall be issued, in the manner provided by law, to said company to carry on its business; and if, at the end of the period for which a license is given, the said company shall desire another license, it shall only be given on the certificate of the Treasurer that the bonds required by this act to be deposited with him are in his possession. (*Ibid*, p. 368, § 29.)

**12.** If the bonds deposited with the Treasurer are registered or individual bonds, the company shall at the same time deliver to him a power of attorney authorizing him to transfer the said bonds, or any part of them, for the purpose of paying any of the liabilities provided for in this act. (*Ibid*, § 30.)

**13.** The Treasurer at the time of receiving said bonds, shall give to the said company authority to draw the interest thereof, as the same may become due and payable, for the use of said company; which authority shall continue in force until the said company shall fail to pay any of its liabilities upon its insurance policies made in favor of any citizen or inhabitant of this State, in which case the party charged with the payment of such interest shall be forthwith notified of such failure; and thereafter such interest shall be payable to the said Treasurer, to be applied, if necessary, to the payment of such liabilities. (*Ibid*, § 31.)

**14.** If the said company shall fail to pay any of its liabilities on said policies of insurance, according to the terms of said policies, when the same shall have been adjusted between the parties in the mode provided in the policies, if a mode is specified therein, or when the same shall have been ascertained in any mode agreed upon by the parties, or by the judgment, order or decree of a court having jurisdiction thereof, the Treasurer shall, upon the application of the party to whom the debt or money is due, proceed to sell at auction such an amount of said bonds, as with the interest in his hands, will pay the amount due and the expenses of sale, and out of the proceeds of such sale shall pay the amount so due, and the said expenses of sale; *Provided*, That the party making the application to the Treasurer shall give to the company, or an agent of the company in this State, ten days' notice of his intention to make said application. (*Ibid*, § 32.)

**15.** Any foreign insurance company doing business as such in this State, may be sued in the courts of this State, upon policies of insurance made to citizens or residents therein, in like manner as if such foreign insurance company had been incorporated by this General Assembly; and service of process or notice upon the agent of such company shall be service upon the company. (*Ibid*, p. 369, § 33.)

**16.** When the principal of any of said bonds so deposited shall be paid to the Treasurer, he shall notify the company, or its agent in this State, and may pay the money so received to the said company upon receiving other like bonds to an equal amount; or upon the failure of the company for thirty days after receiving said notice, to deliver other like bonds to an equal amount to the Treasurer, he may invest the said money in such bonds, and hold the same as he held those bonds which were paid off. (*Ibid*, § 34.)

**17.** If such company shall cease to carry on business in this State, and the liabilities of such company upon its insurance policies, whether fixed or contingent, to the citizens and inhabitants of



this State, shall have been satisfied, or shall have terminated—upon satisfactory evidence of this fact to the Treasurer, he shall deliver to such insurance company the bonds deposited with him by said company, or such as he purchased under the preceding section, or such of them as remain after paying the liabilities of said company provided for in the fifth section of this act, or if such company shall reduce the amount of its liabilities, both fixed and contingent, upon its policies of insurance to the citizens and inhabitants of this State, below the amount of the bonds in the possession of the Treasurer, he may deliver to such company a part of the bonds deposited by said company with him, but so that the bonds in his possession shall always be equal to the liabilities of said company upon the insurance policies to citizens and inhabitants of this State. (*Ibid*, § 35.)

**18.** If the Treasurer shall dispose of the bonds deposited with him by any insurance company, under the provisions of this act, or any part of said bonds, otherwise than is provided in this act, he shall be guilty of a felony, and upon conviction thereof shall be punished by a fine double the amount of the bonds so disposed of, and by confinement in the penitentiary for a period of not less than five nor more than fifteen years. (*Ibid*, § 36.)

**19.** Every company shall certify to the Auditor of Public Accounts, between the first and fifteenth of January, in each year, on the oath of its chief accounting officer, or principal agent in this State, the gross amount of all assessments or premiums collected or received, or obligation taken therefor by such company from its business in this State, and shall immediately pay into the treasury, to the credit of the Auditor of Public Accounts, the tax imposed by law on such assessments, premiums, or forfeitures. (*Ibid*, p. 371, § 40.)

**20.** Any company failing promptly to pay the tax hereby imposed, shall forfeit five per centum upon the amount of the tax due for each month, or fraction of a month, during which it shall be in default. (*Ibid*, § 41.)

**21.** Any company failing to report the amount of its receipts as herein provided, shall forfeit the right to do business in this State until such report shall have been made, of which forfeiture the Auditor shall give notice by publication, and thereupon the powers of such agent shall cease and determine; *Provided*, That when by the laws of any other State or nation, the taxes imposed upon companies chartered by this State are in excess of taxes imposed on insurance companies chartered by this State, then all companies chartered by such State or nation shall be required to pay the same taxes in this State as is required by such State or nation on companies chartered by this State. (*Ibid*, § 43.)

**22.** Hereafter no particular form of declaration shall be necessary in an action upon a policy of insurance, but it shall be sufficient for the plaintiff to file a complaint in writing at common law, setting forth the grounds of his action and the relief prayed for, and filing therewith the original policy, or a sworn copy thereof, upon which his action is brought, and the loss or death relied upon the ground of his recovery, and that he has performed all the conditions of said policy and violated none of its prohibitions; and in such complaint it shall not be necessary to set forth every condition or proviso of said policy, nor to aver observance of or compliance therewith *seriatim*, but a general averment to that effect shall suffice.

Such complaint shall be filed in the same court and at the same time at which a declaration in such cases is now required by law; and such action shall be matured in the same manner as at present. The defendant may plead the general issue, or such other special plea or pleas as is now allowed by law; and the rules now applicable in such cases, as to the bringing of such actions, the maturing and trial of the same, shall remain the same, save as above modified. (*Ibid*, p. 372, § 44.)

**23.** Until the establishment of a regular insurance department in this State, the Auditor of public accounts is authorized, and he is hereby required, at the request of any life insurance company chartered under the laws of this State, to make or cause to be made, a valuation of all policies of such company in force on the thirty-first day of December in any year, at the expense of said company, and keep a record of the same in his office, and certify the same at the request of such company. The said valuation shall be made upon the basis of the American Table of Mortality, and at four and one-half per centum interest. (*Ibid*, § 45.)

**24.** No life insurance company chartered under the laws of any other State, whose Insurance Department refuses to receive as valid the valuation of the policies of any life insurance company of this State made under this act, shall do business in this State until there shall have been made, at the expense of such foreign life insurance company, under the direction of the Auditor of Public Accounts of this State a special valuation of its policies in force. (*Ibid*, § 46.)

**25.** On the real and personal property of every insurance company there shall be a tax of fifty cents on every hundred dollars of the estimated value thereof, the proceeds of one-fifth of which shall be applied to the support of the public free schools of the State. The specific license tax upon each insurance company, for the privilege of doing business in this State, shall be two hundred dollars, and in addition thereto one per centum upon the gross amount of all assessments or premiums collected or received, or obligations taken therefor, derived from its business in this State. Every company shall certify to the Auditor of Public Accounts, between the first and fifteenth of January in each year, on the oath of its chief accounting officer or principal agent in this State, the gross amount of all assessments or premiums collected or received, or obligations taken therefor, by such company, from its business in this State; and shall immediately pay into the treasury the tax imposed by law on such assessments, premiums and forfeitures. Any company failing promptly to pay the tax hereby imposed, shall forfeit five per centum upon the amount of the tax due for each month or fraction of a month, during which it shall be in default. Any company which shall pay the specific license tax into the treasury on or before the first day of June in each year, or as soon thereafter as such company shall begin business in this State, and the additional tax of one per centum upon the amount derived from its business as provided, shall be entitled, without the payment of any additional State tax, to do business in any and every part of the commonwealth. Any company failing to report the amount of its receipts, as herein provided, shall forfeit the right to do business in this State until such report shall have been made, of which forfeiture the Auditor of Public Accounts shall give notice by publication, and thereupon the powers of such agent shall cease and determine;

*Provided*, That when, by the laws of any other State or nation, the taxes imposed upon companies chartered by this State, are in excess of taxes imposed on insurance companies by this State, then all companies chartered by such State or nation, shall be required to pay the same taxes in this State, as are required by such State or nation on companies chartered by this State. (*Laws of 1874, p. 357, § 6.*)

**26.** It shall not be lawful for any incorporated company doing business in this State to exact or receive of persons dealing with it, or charge to the account of such persons with the company, the tax imposed by the State upon the license or business of such company, or any portion thereof, or any amount on account thereof. Any company violating this provision shall, for every such violation, be liable to a fine of one hundred dollars, one-half of which shall go to the informer. (*Laws of 1875, p. 316, § 113.*)

### ARSON AND INCENDIARISM.

**27.** If any person, in the night, maliciously burn the dwelling-house of another, or any jail or prison, or maliciously set fire to anything, by the burning whereof such dwelling-house, jail or prison, shall be burnt in the night, he shall be punished with death; but if the jury find that, at the time of committing the offense, there was no person in the dwelling-house, jail or prison, the offender shall be confined in the penitentiary not less than five nor more than ten years. (*Code, 1873, p. 1193, § 1.*)

**28.** If any person, in the day-time, maliciously burn the dwelling-house of another, or any jail or prison, or maliciously set fire to any building or other thing, by the burning whereof such dwelling-house, jail or prison, shall be burnt, he shall be confined in the penitentiary not less than three, nor more than ten years. (*Ibid, p. 1194, § 2.*)

**29.** No out-house, not adjoining a dwelling-house, nor under the same roof, although within the curtilage thereof, shall be deemed parcel of such dwelling-house, within the meaning of this chapter, unless some person usually lodge therein at night. (*Ibid, § 3.*)

**30.** If any person maliciously burn any meeting-house, court-house, town-house, college, academy or other building erected for public use, except a jail or prison, or any banking-house, warehouse, store-house, manufactory, or mill of another person, not usually occupied by persons lodging therein at night, or if he maliciously set fire to anything, by the burning whereof any building mentioned in this section shall be burnt, he shall be confined in the penitentiary, when such building, with the property therein, is of the value of one thousand dollars, not less than three nor more than ten years; and when it is of less value, not less than three nor more than five years. (*Ibid, § 4.*)

**31.** If a person maliciously burn any building, the burning whereof is not punishable under any other section of this chapter, he shall, if the building, with property therein, be of the value of one hundred dollars or more, be confined in the penitentiary not less than three nor more than ten years; and if it be of less value, be so confined not less than one nor more than three years, or in the discretion of the jury, in jail not more than one year, and be fined not exceeding five hundred dollars. (*Ibid, § 6.*)

**32.** If a person maliciously burn any bridge, lock, dam, or any ship, boat, or other vessel, of the value of one hundred dollars or more, he shall be confined in the penitentiary not less than three nor more than ten years; and if the value be less than one hundred dollars, he shall be confined in jail not exceeding one year, and fined not exceeding two hundred dollars. (*Ibid*, § 7.)

**33.** If a person willfully burn any building, or any goods or chattels, which shall be at the time insured against loss or damage by fire, with intent to injure the insurer, whether such person be the owner of the property or not, he shall be confined in the penitentiary not less than one nor more than ten years. (*Ibid*, p. 1195, § 10.)

#### EMBEZZLEMENT.

**34.** If any person shall, wrongfully and fraudulently, use, dispose of, conceal or embezzle any money, bill, note, check, order, draft, bond, receipt, bill of lading, or any other property which he shall have received for another, or for his employer, principal, or bailor, or by virtue of his office, trust or employment, or which shall have been entrusted or delivered to him by another, or by any court, corporation, or company, he shall be deemed guilty of the larceny thereof. (*Laws of 1874*, p. 50, § 1.)

**35.** For General Provisions relating to Corporations see Code of 1873, pp. 535-552.



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# INSURANCE STATUTES OF WEST VIRGINIA.

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*Revised by Hon. Edward A. Bennett, Auditor.*

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## CONSTITUTIONAL PROVISIONS CONCERNING CORPORATIONS.

**1.** The legislature shall provide for the organization of all corporations hereafter to be created, by general laws, uniform as to the class to which they relate; but no corporation shall be created by special law. (*Art. 11, § 1.*)

**2.** Stockholders of all corporations, and joint-stock companies, except banks and banking institutions, created by laws of this State, shall be liable for the indebtedness of such corporations to the amount of their stock subscribed and unpaid, and no more (*Ibid, § 2.*)

**3.** All existing charters, or grants of special or exclusive privileges, under which organization shall not have taken place, or which shall not have been in operation within two years from the time this constitution takes effect [August 22, 1872], shall thereafter have no validity or effect whatever; *Provided*, That nothing herein shall prevent the execution of any *bona fide* contract heretofore lawfully made in relation to any existing charter or grant in this State. (*Ibid, § 3.*)

**4.** The legislature shall provide by law, that in all elections for directors or managers of incorporated companies, every stockholder shall have the right to vote, in person, or by proxy, for the number of shares of stock owned by him, for as many persons as there are directors or managers to be elected, or to cumulate said shares, and give one candidate as many votes as the number of directors multiplied by the number of his shares of stock, shall equal, or to distribute them on the same principle among as many candidates as he shall think fit; and such directors or managers shall not be elected in any other manner. (*Ibid, § 4.*)

## DOMESTIC AND FOREIGN INSURANCE COMPANIES.

**5.** Every insurance, telegraph, or express company having its principal place of business in this State, and incorporated by any act of the General Assembly of Virginia, passed before the twentieth day of June, eighteen hundred and sixty-three, or heretofore or hereafter incorporated under and pursuant to any act of the legislature of this State, shall be deemed a domestic company; and every other insurance or express company, a foreign company. (*Code 1868, p. 214, § 1.*)

**6.** It shall not be lawful for any officer or agent of any fire or marine insurance company, directly or indirectly, to take risks or

issue policies of insurance within this State without first procuring from the Auditor a certificate as hereinafter directed.

Before obtaining such certificate such company, its officers or agents, shall furnish the Auditor with a statement, under oath, of the president or secretary of the company for which he or they may act, which statement shall show :

*First.*—The name and locality of the company ;

*Second.*—The amount of its capital stock ;

*Third.*—The amount of its capital stock paid up ;

*Fourth.*—The assets of the company, including, First, the amount of cash on hand and in the hands of agents or other persons ; Second, the real estate unincumbered ; Third, the bonds owned by the company and how they are secured, with the rate of interest thereon ; Fourth, debts to the company secured by mortgage or otherwise ; Fifth, debts for premiums ; Sixth, all other securities ;

*Fifth.*—The amount of liabilities due or owing to banks or other creditors by the company ;

*Sixth.*—Losses adjusted and due ;

*Seventh.*—Losses adjusted and not due ;

*Eighth.*—Losses unadjusted ;

*Ninth.*—Losses in suspense waiting for future proof ;

*Tenth.*—All other claims against the company ;

*Eleventh.*—The greatest amount insured in any one risk ;

Which statement shall be filed in the office of the said Auditor. And no foreign insurance company, or agent thereof, shall transact any business of insurance in this State, unless such company is possessed of at least one hundred thousand dollars of actual capital, invested in the stock or bonds of some one or more of the States of this Union whose bonds are at par ; or of the bonds of the United States at the current market value thereof at the date of such statement ; or in bonds secured by mortgage or deed of trust on real estate, worth double the amount for which the same is mortgaged, free from any prior incumbrance, and having undoubted title. The Auditor shall be authorized to examine into the condition and affairs of any foreign insurance company doing business in this State, or cause such examination to be made by some person or persons appointed by him having no interest in any insurance company. And whenever it shall appear to the satisfaction of said Auditor that the affairs of any such company are in an unsound condition, he shall revoke the certificate granted in behalf of such company, and shall cause a notification thereof to be published in some newspaper of general circulation published at the capital of this State, and the agent or agents of such company are, on and after such notice, required to discontinue the issuing of any new policies, or the renewal of any previously issued. When, by the laws of any other State, any deposits of money or of securities, or other obligations or prohibitions, are imposed, or would be imposed on insurance companies of this State, doing, or that might seek to do business in such other State, or upon their agents therein, so long as such laws continue in force, the same obligations and prohibitions, of whatever kind, shall be imposed upon all insurance companies of such other State doing business within this State, or upon their agents here. Every foreign insurance company doing business in this State, at the time of making the annual statement as required by law, shall pay into the State treasury, as taxes, three per cent. of the gross amount of premiums received in this State during the previous year, taking

duplicate receipts therefor, one of which shall be filed with the Auditor; and upon the filing of said receipts, and not till then, the said Auditor shall issue the annual certificate as provided by law, and the said sum of three per cent. shall be in full of State taxes only; *Provided*, That any foreign live stock insurance company which shall invest in this State the whole amount of its net receipts from its business therein, shall pay only one-third of the aforesaid rates. No officer or agent of a foreign insurance company shall make, renew, or negotiate in this State any insurance, or contract for insurance on behalf of such company, or transact any business for such company, directly or indirectly, without first obtaining the Auditor's certificate of authority as required by law; and this applies to all persons engaged in any manner in soliciting risks, insuring or obtaining the issue of policies, selling tickets of insurance, or otherwise doing the business of insurance, either by direct appointment from a company or as such agent. (*Laws of 1872-73*, p. 646, § 1.)

7. Upon a compliance with the provisions of the preceding section, by such foreign company, it shall be the duty of said Auditor to issue certificate thereof, with authority to the company so complying, its agent or agents, to transact the business of insurance. The said statements, instruments, and evidence shall be renewed annually in the month of January in each year; and the Auditor, on being satisfied that the capital, securities and investment remain secure as at first, shall furnish a renewal of the certificate as aforesaid, and the company, agent, or agents obtaining such certificate shall cause the same to be published in some newspaper of general circulation published in the State, and cause a copy of such publication to be filed in the office of the Clerk of the Circuit Court in each county where said company, its agent or agents, does insurance business. Every such certificate shall recite the statement and evidence required by this and the preceding sections. (*Code*, 1868, p. 215, § 3.)

8. The Auditor shall be entitled to ten dollars in each case for the examination of statements, and investigation of the evidences of investment, and five dollars for each certificate of authority issued under the provisions of this chapter. (*Ibid*, § 4.)

9. The written or printed copies of all papers required by this chapter to be deposited with the Auditor, certified under the hand of such Auditor to be true and correct copies of such papers, shall be received as evidence in all courts and places in the same manner, and have the same force and effect as the original would have if produced. (*Ibid*, p. 216, § 5.)

10. The property of all domestic insurance, telegraph, and express companies shall be assessed for taxation as other property in this State. But the stock notes of such companies shall not be assessed. (*Ibid*, § 6.)

11. Every foreign insurance, telegraph, and express company doing business in this State, or the agent or agents thereof, shall annually make returns to the Auditor, as follows; *Provided*, That where there are several agents of any such company in this State, the returns may be made by any one of them on behalf of all. (*Ibid*, § 7.)

12. If such returns be made on behalf of an insurance company, they shall show the amount of premiums on all insurances made, renewed, or negotiated within this State, or on any subject of



insurance within this State, on behalf of such company, during the period to which the said returns relate, including as well premiums uncollected as those which are paid. (*Ibid*, § 8.)

**13.** The amount only may be stated in the returns without the particulars, unless a more specific return be required by the Auditor. The returns so made shall be verified by the affidavit of the officer or agent making the same. (*Ibid*, § 11, *as amended*.)

**14.** It shall be the duty of the Auditor to cause the provisions of this chapter to be carried into effect, and he may from time to time prescribe such forms and regulations as are proper for that purpose. And it shall be the duty of every Assessor to transmit to the Auditor, within the week preceding the first day of February and August, in every year, a list of all such companies or agents doing business within his assessment district as are required to make returns as aforesaid. (*Ibid*, § 12.)

**15.** Every company or agent hereby required to make return or payment as aforesaid, who shall fail to do so, or knowingly make a false return, shall forfeit not less than one hundred nor more than one thousand dollars for every such offense. (*Ibid*, p. 217, § 14.)

**16.** Every foreign insurance, telegraph, and express company doing business in this State shall by power of attorney duly acknowledged and authenticated, and filed by the company in the office of the Auditor, appoint some person residing in this State to accept service of process and notices in this State for the said company; and by the same instrument shall declare its consent that service of any process or notice in this State on the said attorney, or his acceptance of service endorsed thereon, shall have the same effect as service thereof upon the company. And thereafter such acceptance by the said attorney, or service upon him, shall be equivalent for all purposes to service upon his principal. (*Ibid*, § 15.)

**17.** As long as any liability of the company in this State remains unsatisfied, no revocation of any such power of attorney shall be of any effect until after a like power to some other person residing in this State has been filed by the said company in the office of the Auditor. And when any such attorney dies or resigns, the company shall immediately make a new appointment and file the evidence thereof as aforesaid, until all its liabilities in this State are discharged. (*Ibid*, § 16.)

**18.** A copy of any such power of attorney, certified by the Auditor under his hand, shall be received in all courts and places as *prima facie* evidence of the execution and contents of such instrument. The Auditor may demand for such copy from the person applying therefor, a fee at the rate of fifteen cents for every hundred words. (*Ibid*, p. 218, § 17.)

**19.** No officer or agent of a foreign insurance company shall make, renew, or negotiate in this State any insurance or contract for insurance on behalf of such company, nor shall any agent of a foreign express company undertake, in this State, to forward or carry any money, goods, or merchandise on behalf of such express company, unless the said insurance or express company has complied with the fifteenth and sixteenth sections of this chapter. Any person violating this section shall forfeit not less than twenty nor more than two hundred dollars for every such offense; but the contract or undertaking shall nevertheless not be invalidated by any thing in this section contained. (*Ibid*, § 18.)

## LIFE INSURANCE FOR THE BENEFIT OF MARRIED WOMEN AND CHILDREN.

**20.** It shall be lawful for any married woman, by herself, and in her name, or in the name of any third person, with her assent, as her trustee, to cause to be insured, for her sole use, the life of her husband for any definite period, or for the term of his natural life; and in case of her surviving her husband, the sum or net amount of the insurance becoming due and payable by the terms of the insurance, shall be payable to her, to and for her own use, free from the claims of the representatives of her husband, or of any of his creditors; but such exemption shall not apply where the amount of premium annually paid out of the funds or property of the husband shall exceed one hundred and fifty dollars. (*Code*, 1868, p. 448, § 5.)

**21.** The amount of the insurance may be made payable, in case of the death of the wife before the decease of her husband, to his or her children, for their use, as shall be provided in the policy of insurance, and to their guardian if under age. (*Ibid*, p. 449, § 6.)

## ARSON AND INCENDIARISM.

**22.** If any person in the night, maliciously burn the dwelling-house of another, or any jail or prison, or maliciously set fire to anything, by the burning whereof such dwelling-house, jail, or prison shall be burnt in the night, he shall be punished with death, or by confinement in the penitentiary during his life, at the discretion of the jury; but if the jury find that at the time of committing the offense, there was no person in the dwelling-house, jail, or prison, the offender shall be confined in the penitentiary not less than five years. (*Code*, 1868, p. 681, § 1.)

**23.** If any person in the day-time, maliciously burn the dwelling-house of another, or any jail or prison, or maliciously set fire to any building or other thing, by the burning whereof such dwelling-house, jail, or prison shall be burnt, he shall be confined in the penitentiary not less than three nor more than ten years. (*Ibid*, § 2.)

**24.** No out-house not adjoining a dwelling-house, nor under the same roof, although within the curtilage thereof, shall be deemed parcel of such dwelling-house within the meaning of this chapter, unless some person usually lodge therein at night. (*Ibid*, § 3.)

**25.** If a person maliciously burn any meeting-house, court-house, town-house, college, academy or other building erected for public use (except a jail or prison), or any banking-house, warehouse, store-house, manufactory, or mill of another person, not usually occupied by persons lodging therein at night, or if he maliciously set fire to anything, by the burning whereof any building mentioned in this section shall be burnt, he shall be confined in the penitentiary, when such building with the property therein, is of the value of one thousand dollars, not less than three nor more than ten years; and when it is of less value, not less than three nor more than five years. (*Ibid*, § 4.)

**26.** If a person maliciously burn any building, the burning whereof is not punishable under any other section of this chapter, he shall, if the building with property therein be of the value of one hundred dollars or more, be confined in the penitentiary not less

than three nor more than ten years; and if it be of less value, be so confined not less than one nor more than three years, or in the discretion of the jury, in jail not more than one year, and be fined not exceeding five hundred dollars. (*Ibid*, p. 682, § 6.)

**27.** If a person maliciously burn any bridge, lock, dam, or any ship, boat, or other vessel of the value of one hundred dollars or more, he shall be confined in the penitentiary not less than three nor more than ten years; and if the value be less than one hundred dollars, he shall be confined in jail not exceeding one year, and fined not exceeding two hundred dollars. (*Ibid*, § 7.)

**28.** If a person willfully burn any building, or any goods or chattels which shall be at the time insured against loss or damage by fire, with intent to injure the insurer, whether such person be the owner of the property or not, he shall be confined in the penitentiary not less than one nor more than ten years. (*Ibid*, § 10.)

### EMBEZZLEMENT.

**29.** If any director or officer of any incorporated bank, or any office of public trust in this State, or any officer, agent or clerk of any company, firm or person embezzle or fraudulently convert to his own use bullion, money, bank notes, or other security for money, or any effects or property of another person, which shall have come to his possession, or been placed under his care or management, by virtue of his office, place, or employment, he shall be deemed guilty of larceny thereof. (*Code*, 1868, p. 683, § 19.)

**30.** For General Provisions relating to Corporations see *Code* of 1868, pp. 388, 411; *Laws* of 1873, pp. 265, 266, 535.

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# INSURANCE STATUTES OF WISCONSIN.

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*Revised by Hon. Peter Doyle, Secretary of State.*

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## CONSTITUTIONAL PROVISIONS CONCERNING CORPORATIONS.

**1.** The legislature is prohibited from enacting any special or private laws in the following cases :

For granting corporate powers or privileges, except to cities. (*Art. 4, part of § 31.*)

**2.** The legislature shall provide general laws for the transaction of any business that may be prohibited by section thirty-one of this article, and all such laws shall be uniform in their operation throughout the State. (*Art. 4, § 32.*)

## FIRE AND MARINE INSURANCE COMPANIES.

**3.** Any number of persons not less than fifteen may associate and form an incorporated company for the purposes, to wit : To make insurance on dwellings, stores and all kinds of buildings, and upon household furniture and other property, against loss or damage by fire and the risks of inland navigation and transportation. Any and all insurance companies hereafter incorporated under the provisions of this act, which shall, in the declaration and charter provided to be filed, have expressed an intention to make insurance, or which shall have power to make insurance, against loss or damage by the risks of inland navigation or transportation, shall have power to make insurance upon vessels, boats, cargoes, goods, merchandise, freights and other property, against loss and damage by all or any of the risks of lake, river, canal and inland navigation and transportation. (*Revised Statutes, 1871, p. 950, § 1.*)

**4.** Any companies organized under this act shall have power to effect reinsurance of any risks taken by them respectively. (*Ibid, § 2.*)

**5.** Such persons shall file in the office of the Secretary of State a declaration signed by all the corporators, expressing their intention to form a company for the purpose of transacting the business of insurance, as expressed in the first section of this act, which declaration shall also comprise a copy of the charter proposed to be adopted by them, and shall publish a notice of such, their intention, once in each week for at least four weeks in all public newspapers published in the county where such insurance company is proposed to be located. (*Ibid, § 3.*)

**6.** The charter comprised in such declaration shall set forth the name of the company ; the place where the principal office for

the transaction of its business shall be located; the manner and mode in which the corporate powers granted by this act shall be exercised; the manner and mode of electing directors or trustees, a majority of whom shall be citizens of this State, and of filling vacancies (but each director or trustee of a stock company shall be the owner of at least five hundred dollars' worth of the stock of the company, in his own right, at its par value); the period for the commencement or termination of its fiscal year, and the amount of capital to be employed in the transaction of its business. And the Secretary of State shall have the right to reject any name or title of any company applied for, when he shall deem the name too similar to one already appropriated, or likely to mislead the public in any respect. (*Ibid*, § 4.)

7. Any fire insurance company organized or created by general or special law of this State, is hereby authorized at any general or special meeting of its members or stockholders, duly called or convened, to amend its charter or articles of association so as to provide for the election of a board of managers, consisting of the president, secretary, and not more than five nor less than three other members or stockholders, in lieu of its board of directors or trustees, as now provided for by law. The mode and manner of electing such board of managers shall be regulated by the by-laws, and said board when duly elected, shall exercise the corporate powers of that company, and manage the affairs and business of the same and be vested with the same powers now exercised by and subject to the same duties now imposed upon the directors and executive committee of such insurance company, unless the stockholders in their articles of association or by-laws see fit differently to direct or provide. (*Laws of 1875, p. 284, § 1.*)

8. No company formed under this act shall, directly or indirectly, deal or trade in buying or selling any goods, wares, merchandise or other commodities whatever, excepting such goods or articles as may have been insured by such company, and are claimed to be damaged by fire or water. (*Revised Statutes, 1871, p. 951, § 5.*)

9. No joint stock company shall be incorporated under this act in any incorporated city, nor shall any company incorporated under this act establish an agency for the transaction of business in any city with a smaller capital than one hundred thousand dollars actually paid in in cash, nor elsewhere outside of an incorporated city in the State, with a less capital than fifty thousand dollars actually paid in in cash; nor shall any company for the purpose of doing business of fire and inland navigation insurance on the plan of mutual insurance, commence business until agreements have been entered into for insurance with at least three hundred applicants, the premiums on which shall amount to not less than one hundred and fifty thousand dollars, of which at least thirty thousand dollars shall have been paid in in cash, and notes of solvent parties founded on actual and *bona fide* applications for insurance shall have been received for the remainder; nor shall any company formed for the purpose of doing business of fire insurance only, on the plan of mutual insurance, commence business until at least one hundred and fifty applicants have entered into agreements for insurance, the premiums on which shall amount to not less than one hundred thousand dollars, of which twenty thousand dollars at least shall have been paid in in cash, and notes of solvent parties founded



on actual and *bona fide* applications for insurance for the remainder, shall have been received. No one of the notes received as above shall amount to more than five hundred dollars; and no two shall be given for the same risk or be made by the same person or firm, except where the whole amount of such notes shall not exceed five hundred dollars, nor shall any such note be represented as capital stock unless a policy be received upon the same within thirty days after the organization of the company, upon a risk which shall be for no shorter period than twelve months. Each of said notes shall be payable, in parts or in whole, at any time when the directors shall deem the same requisite for the payment of losses by fire or inland navigation, and such incidental expenses as may be necessary for the transaction of the business of the company; and no note shall be excepted as part of such capital stock unless the same shall be accompanied by a certificate of the County Judge in the county where the person making such note shall reside, that the person making the same is, in his opinion, pecuniarily good and responsible for the same; and no such note shall be surrendered during the life of the policy for which it was given. No joint-stock fire insurance company, organized under this act or transacting business in this State, shall expose itself to any loss on any fire or inland navigation risk or hazard, to an amount exceeding ten per cent. of its paid up capital. (*Ibid*, § 6.)

10. It shall and may be lawful for the individuals associated for the purpose of organizing any company under this act, after having published the notice and filed the declaration and charter as required by the third section of this act, and also on filing in the office of the Secretary of State proof of such publication, by the affidavit of the publisher of such newspaper, to open books for subscription to the capital stock of the company so intended to be organized, and to keep the same open until the whole amount specified in the charter is subscribed; or in case the business is proposed to be conducted on the plan of mutual insurance, then to open books to receive propositions and enter into agreements in the manner and to the extent specified in the sixth section of this act. (*Ibid*, p. 952, § 7.)

11. It shall be lawful for any insurance company organized under this act or incorporated under the laws of this State, to invest its capital and the funds accumulated in the course of its business or any part thereof, in bonds and mortgages or improved unincumbered real estate within the State of Wisconsin, worth at least fifty per cent. more than the sum loaned thereon, exclusive of buildings, unless such buildings are insured and the policy transferred to said company, and also in the stocks of this State or those of any city, county or town authorized to be issued by the legislature; also in the stocks and treasury notes of the United States, and to lend the same or any part thereof on the security of such stock, bonds or treasury notes, or upon bonds and mortgages as aforesaid, and to change and reinvest the same as occasion from time to time may require, but any surplus money over and above the capital stock of such fire and inland navigation insurance companies, or any insurance company incorporated under the laws of this State, may be invested in or loaned upon the pledge of the public stock or bonds of the United States, or any one of the States, or on the stock, bonds or other evidences of indebtedness of any solvent dividend paying institutions incorporated under the laws of this State or the United States,

except their own stock; *Provided, always,* That the market value of such stock, bonds or other evidences of debt shall be at all times during the continuance of such loans at least ten per cent. above or more than the sum loaned thereon. (*Ibid*, § 8.)

**12.** No company organized by or under this act shall purchase, hold or convey real estate, excepting for the purposes and in the manner herein set forth, to wit: such as shall be necessary for its convenient accommodation in the transaction of its business, or such as may have been mortgaged to it in good faith by way of security for loans previously contracted or for money due, or such as shall have been conveyed to it for debts previously contracted in its legitimate business, or for money due, or such as has been purchased at sales upon judgments, decrees or mortgages obtained or made for such debts; and all such other real estate as may be acquired as aforesaid, and shall not be necessary for the accommodation of such company in the transaction of its business, shall be sold and disposed of within four years after such company shall have acquired title thereto, unless such company shall procure a certificate from the Secretary of State that such company will suffer materially from a forced sale thereof, in which event the sale may be postponed for such period as the Secretary of State may direct in the certificate. And the said Secretary of State may also give such certificate, and extend the time for holding real estate in the like circumstances, on the application of any insurance company heretofore incorporated. (*Ibid*, p. 953, § 9.)

**13.** The charter and proof of publication herein required to be filed by every such company, shall be examined by the Attorney-General, and if found consistent with this act, and conformable to the constitution or laws of this State, shall be certified by him to the Secretary of State, who shall thereupon cause an examination to be made, either by himself or by a disinterested person specially appointed by him for that purpose, who shall certify under oath that the capital herein required of the company named in the charter, according to the nature of the business proposed to be transacted by such company has been paid in and is possessed by it in money, or in such stock, bonds and mortgages as are required by the 8th section of this act, or if a mutual company, that it has received and is in actual possession of the capital, premiums or *bona fide* engagements of insurance or securities to the full extent and of the value required by the sixth section of this act, and the name and residence of the maker of each premium note forming part of the capital, and the amount of such note shall be returned to the Secretary of State; and the incorporators or officers of such company shall be required to certify under oath that the capital exhibited to this person, is *bona fide* the property of the company. Such certificate shall be filed in the office of the Secretary of State, who thereupon shall deliver to such company a certified copy of the charter and of said certificate, which on being filed in the office of the Clerk of the Circuit [Court] of the county where the company is located, shall be their authority to commence business and issue policies. And such certified copy of charter and certificate may be used in evidence for or against the company with the same effect as the originals. (*Ibid*, § 10.)

**14.** The incorporators, trustees or directors of any company organized under this act shall have a corporate seal, and they or their successors may alter or change the design of the same at pleasure;

they shall also have the power to make such by-laws as will not conflict with this act or the constitution or laws of this State. (*Ibid*, p. 954, § 11.)

**15.** It shall not be lawful for the directors, trustees or managers of any fire insurance company to make any dividends except from surplus profits arising from their business, and in estimating such profits there shall be reserved therefrom, a sum equal to the whole amount of premiums on unexpired risks and policies which are hereby declared to be unearned premiums, and also there shall be reserved, all sums due the corporation on bonds and mortgages, stocks and book accounts, of which no part of the interest or principal thereon has been paid during the last year, and for which no suit or foreclosure has been commenced for collection, or which, after judgment thereon obtained, shall have remained more than two years unsatisfied, and on which interest shall not have been paid; and also, there shall be reserved, all interest due or accrued and remaining unpaid; *Provided, always*, That any company may declare dividends not exceeding ten per cent. on its capital stock in any one year that shall have accumulated and be in possession of a fund, in addition to the amount of its capital stock and of such dividends, and all actual outstanding liabilities equal to one-half of all premiums on risks not terminated at the time of making such dividends. Any company making dividends contrary to the foregoing provisions shall be liable to a forfeiture of its charter, and each stockholder receiving it shall be liable to the creditors of such company, to the extent of the dividend received, as well as to the penalties in such cases made and provided. This section shall not apply to the declaration of scrip dividends by participating companies, but no such scrip dividends shall be paid except from surplus profits after reserving all sums as above provided, including the whole amount of premiums on unexpired risks. The word, "year," wherever used in this section shall mean the calendar year. (*Ibid*, § 12.)

**16.** All notes deposited with any mutual insurance company at the time of its organization, as provided in section six of this act, shall remain as security for all losses and claims until the accumulation of profits invested as required by the eighth section of this act shall equal the amount of cash capital required to be possessed by stock companies organized under this act, the liability of each note decreasing proportionately as the profits are accumulated; but any note which may have been deposited with any mutual insurance company, subsequent to its organization, in addition to the cash premium on any insurance effected with such company, may at the expiration of the time of such insurance be relinquished and returned to the maker thereof or his representative, upon his paying his proportion of all losses and expenses which may have accrued thereon during the term. The directors or trustees of any such company may or shall have the right to determine the amount of the note to be given, in addition to the cash premium by any person insured in such company, but in no case shall the note be more than twice the whole amount of the cash premium. And any person effecting insurance in a mutual insurance company, and their heirs, executors, administrators or assigns, continuing to be so insured, shall thereby become members of said corporation during the period of insurance, and shall be bound to pay for all losses and necessary expenses as aforesaid, accruing in and to said company, in proportion to the amount of his deposit note or notes. The directors shall as often as

they deem necessary, after receiving notice of any loss or damage by fire, sustained by any member, and ascertaining the same, and after the rendition of any judgment against said company for any loss or damage, settle and determine the sums to be paid by the several members thereof, as their respective portion of such loss or damage, and published as they may deem best, or as the by-laws may require, and the sum to be paid by each member shall always be in proportion to the original amount of his deposit note or notes, and shall be paid to the officers of the company, within thirty days after the publication of such notice; and if any member shall for the space of thirty days, after the publication of such notice, and after demand for payment shall have been made, neglect or refuse to pay the sum assessed upon him as his proportion of any loss, in such case the directors may sue for and recover the whole amount of his deposit note or notes, with costs of suit, but execution shall issue only for assessments and costs as they accrue, and every such execution shall be accompanied by a list of the losses for which the assessment is made. If the whole amount of deposit notes shall be insufficient to pay the loss occasioned by any fire or fires, in such case the sufferers insured by the said company shall receive towards making good their respective loss or losses, a proportional share of the whole amounts of said notes, according to the sums by them respectively insured. (*Ibid*, § 13.)

**17.** Every fire and inland navigation insurance company heretofore or hereafter organized, shall, if it be a mutual company, embody the word "mutual" in its title, which shall appear on the first page of every policy or renewal receipt; and every company doing business as a cash stock company shall upon the face of its policy in some suitable manner, express that such policy is a stock policy; *Provided, however,* That companies now organized may, for the year 1870, use their present form, with the words "mutual" and "stock" omitted. (*Ibid*, p. 955, § 14.)

**18.** Suits at law may be maintained by any corporation formed under this act, against any of its members or stockholders for any cause relating to the business of the company; also suits at law may be maintained by any member or stockholder against such corporation for any losses which may have accrued if payment is withheld more than thirty days after such losses have become due, and any member or stockholder not a party to such suit may be a witness therein. (*Ibid*, § 15.)

**19.** The trustees and incorporators of any company organized under this act, and those entitled to a participation in the profits of such company, shall be jointly and severally liable for all debts and responsibilities of such company until the whole amount of the capital shall have been paid in, and a certificate thereof recorded or filed as hereinbefore provided. Notes taken in advance under this act are not to be regarded as debts of the company in determining its solvency, but are considered as assets of the company. (*Ibid*, p. 956, § 16.)

**20.** Any existing fire insurance company, and any company formed under this law, may at any time increase its capital stock after notice given once a week for four weeks, in some newspaper published in the county where such company is located, of such intention, with the written consent of three-fourths in amount of its stockholders, unless otherwise provided in its charter; if a mutual company, with the unanimous consent of its trustees, unless other-



wise provided in its charter, by filing a copy of their charter so altered or amended in this respect, together with a certificate under its corporate seal, signed by its president, directors or trustees, of their desires so to do, in the office of the Secretary of State, and upon the same proceeding had as required by the tenth section of this act. It shall be lawful also for any existing joint stock fire insurance company, or any company organized under this act, without increasing its capital stock, provided its actual paid-up in cash capital is not less than fifty thousand dollars, at any time within two years previous to the termination of its charter, and after giving notice once once a week for four weeks in some newspaper published in the county where such company is located, of such intention, and with a declaration under its corporate seal, signed by its president and directors, of their desire for such extension, to extend the term of its original charter to the time specified in section twenty-five of this act, by altering and amending the same so as to accord with the provisions of this act, and filing a copy of the same in the office of the Secretary of State, whereupon the same proceeding shall be had as required in the tenth section of this act. (*Ibid*, § 17.)

**21.** All insurance companies heretofore organized in the State of Wisconsin, and now doing business in this State, are hereby brought under all the provisions of this act, except that their capitals may continue of the amounts and character named in and authorized by their respective charters, during the existing term of such charters, and the investments of the capital and assets of such companies may remain the same as prescribed by their charters, anything in this act to the contrary notwithstanding; and such companies shall also be entitled to all the privileges and powers granted by said charters. (*Ibid*, § 18.)

**22.** All companies incorporated or extended under this act shall be deemed and taken to be bodies corporate and politic, in fact and in name, and shall be subject to all the provisions of law in relation to corporations, so far as the same are applicable. (*Ibid*, p. 957, § 19.)

**23.** It shall be the duty of the president or vice-president and secretary of each company organized under this act, or incorporated under any law of this State, annually on the first day of January of each year, or within one month thereafter, to prepare under their own oath, and deposit in the office of the Secretary of State, a statement of the condition of such company on the thirty-first day of December then next preceding, exhibiting the following facts and items in the following form, namely:

*First.*—The amount of the capital stock of the company.

*Second.*—The property or assets of the company, specifying:

1. The value, as near as may be, of the real estate held by such company.

2. The amount of cash on hand and in such company's office, and also the amount deposited in bank to the credit of such company, and specifying in what bank or banks the same is deposited.

3. The amount of loans secured by bonds and mortgages constituting the first lien on real estate, on which there shall be less than one year's interest due or owing.

4. The amount of loans on which interest shall not have been paid within one year previous to such statement.

5. The amount due the company, on which judgments have been obtained.

6. The amount of stocks of this State, of the United States, of any incorporated city of this State, and of any other stocks owned by the company, specifying the amount, number of shares, and the par and market value of each kind of stock so held.

7. The amount of stocks held thereby as collateral security for loans, with the amount loaned on each kind of stock, its par value and market value.

8. The amount of the assessments on stock or premium notes, paid and unpaid.

9. The amount of interest actually due and unpaid.

10. The amount of premium notes on hand on which policies are in force.

*Third.*—The liabilities of such company, specifying :

1. The amount of losses due and unpaid.

2. The amount of claims for losses resisted by the company.

3. The amount of losses incurred during the year, including those claimed and not yet due, and those reported to the company upon which no action has been taken.

4. The amount of dividends declared due and unpaid.

5. The amount of dividends, either cash or scrip, declared but not yet due.

6. The amount of money borrowed and security given for the payment thereof.

7. The amount required to reinsure all outstanding risks.

8. The amount of all other existing claims against the company.

*Fourth.*—The income of the company during the preceding year, specifying :

1. The amount of interest money received.

2. The amount of cash premiums received

3. The amount of notes received for premiums.

4. The amount of income received from other sources.

*Fifth.*—The expenditure during the preceding year, specifying :

1. The amount of losses paid during the year, stating how much accrued prior, and how much subsequent to the date of the preceding statement.

2. The amount of dividends paid during the year.

3. The amount of expenses during the year, stating the amount paid officers' salary and fees; the amount paid agents' commission and fees, and the amount paid for office expenses and rents, the amount for taxes, and the amount of all other payments and expenditures. (*Ibid*, § 20.)

**24.** The Secretary of State is hereby authorized and empowered to address inquiries to any insurance company or any officer thereof, in relation to the doings or conditions or any other matter connected with its transactions; and it shall be the duty of any company or officer so addressed, to promptly reply in writing to any such inquiries. The statement of any company, the capital of which is composed in whole or in part of notes, shall, in addition to the provisions of the foregoing section, exhibit the amount of notes originally forming the capital, and also what proportion of said notes is still held by such company and considered capital. The statements herein provided for shall be in lieu of any and all state-

ments now required by any existing laws. Every fire insurance company organized under any law of this State, failing to make and deposit such statements, or to reply to any inquiry of the said Secretary of State, shall be subject to the penalty of five hundred dollars, and an additional five hundred dollars for every month that such company shall continue thereafter to transact any business of insurance. It shall be the duty of the Secretary of State to cause to be prepared and furnished to each of the companies and to the attorneys of companies incorporated by other States and foreign governments, printed forms of the statements required by this act, and he may from time to time make changes in the form of such statements as shall seem to him best adapted to elicit from the companies a true exhibit of their condition in respect to the several points hereinbefore mentioned. It shall be the duty of the Secretary of State to cause the information contained in the statements required by this section to be arranged in tabular form, and publish the same on or before the first day of May next succeeding. (*Ibid*, p. 958, § 21.)

**25.** It shall not be lawful for any fire insurance company, association or partnership incorporated by or organized under the laws of any other State of the United States, or any foreign government, for any of the purposes specified in this act, directly or indirectly, to take risks or transact any business of insurance in this State, unless possessed of the amount of actual capital required of similar companies formed under the provisions of this act, and any such company desiring to transact any such business as aforesaid by any agent or agents in this State, shall first appoint an attorney in this State on whom process of law can be served, containing an agreement that such company will not remove the suit for trial into the United States Circuit Court or federal courts, and file in the office of the Secretary of State a written instrument, duly signed and sealed, certifying such appointment, which shall continue until another Attorney be substituted; and any process issued by any Court of Record in this State, and served upon any such Attorney by the proper officer of the county in which such attorney may reside or may be found, shall be deemed a sufficient service of process upon such company, but service of process upon such company may also be made in any other manner now provided by law. In case any insurance company not incorporated in the State, shall cease to transact business in this State according to the laws thereof, the agents last designated or acting as such for such corporation, shall be deemed to continue agents for such corporation for the purpose of serving process, for commencing action upon any policy or liability incurred or contracted while such corporation transacted business in this State, and services of such process for the causes aforesaid, upon any such agent, shall be deemed a valid personal service upon such corporation, and every such company, association or partnership, shall also file a certified copy of their charter or deed of settlements, together with a statement, under oath of the president or vice-president or other chief officer and secretary of the company for which he or they may act, stating the name of the company and place where located, the amount of its capital, with a detailed statement of its assets, showing the amount of cash on hand, in bank, the amount of real estate and how much the same is encumbered by mortgage, the number of shares of stock of every kind owned by the company, the par and market value of the same, amount loaned on bond and

mortgage, the amount loaned on other security, stating the kind and amount loaned on each and the estimated value of the whole amount of such securities, any other assets or property of the company, also stating the indebtedness of the company, the amount of losses adjusted and unpaid, the amount incurred and in process of adjustment, the amount resisted by the company as illegal and fraudulent, and all other claims existing against the company, also a copy of the last report, if any made under any law of the State by which such company was incorporated; and no agent shall be allowed to transact any business for any such company, whose capital is impaired to the extent of twenty per cent. thereof, while such deficiency shall continue, and any company incorporated by or organized under any foreign government, shall in addition to the foregoing, file in the office of the Secretary of State a statement verified by the oath of the president, secretary, or manager of such company, resident in the United States, showing to the satisfaction of the Secretary of State, that such company has invested in the stocks or bonds of the United States, of the State of New York or Wisconsin; such stocks or bonds to be in all cases equal to a stock producing six per cent. per annum, or in bonds and mortgages on unincumbered real estate worth fifty per cent. more than the amount loaned thereon, the sum of at least two hundred thousand dollars, and that such stocks or bonds are deposited with the Superintendent of the Insurance Department, State Treasurer, or other proper State officer of some one of the States of the United States, or are held by a citizen or citizens of the United States, as a trustee or trustees and that such securities are not pledged or incumbered, but are held and remain for the benefit and security of the policy-holders of such company, residing in the United States, or in default of such statement, shall deposit with the State Treasurer for the benefit and security of policy-holders residing in the United States, a sum not less than fifty thousand dollars, in stocks of the United States or of the State of Wisconsin, in all of the cases to be equal to a stock producing six per cent. per annum, said stocks not to be received by said Treasurer at a rate above their par value, or above their current market value, or in bonds and mortgages on improved unincumbered real estate in the State of Wisconsin, worth fifty per cent. more than the amount loaned thereon. The stocks and securities so deposited may be exchanged from time to time for other securities receivable as aforesaid; and so long as the company so depositing shall continue solvent and comply with the laws of this State, such company or association may be permitted by the said Treasurer to collect the interest or dividends on said deposit, and where deposit is made of bonds and mortgages, accompanied by full abstracts of titles and searches, the fees for an examination of title by counsel to be paid by the party making the deposit, shall not exceed twenty dollars for each mortgage, and the fees for an appraisal of property shall be five dollars to each appraiser, not exceeding two, besides expenses for each mortgage, nor shall it be lawful for any agent or agents, or other persons, to act for any company or companies referred to in this section, directly or indirectly, in taking risks or transacting the business of fire or inland navigation insurance in this State, without procuring from the State Treasurer a certificate for the deposit so made, and from the Secretary of State a certificate of authority, stating that such company has complied with all the provisions of this act which apply to such



companies, and the name of the attorney appointed to act for such company. The statements and evidence of investments and deposits required by this section shall be renewed from year to year, in manner and form as may be required by the Secretary of State, with an additional statement of the amount of premiums received and losses incurred in the State during the preceding year, so long as such agency continues, and the Secretary of State, on being satisfied that the capital, securities, and investments remain secure, as hereinbefore provided, shall furnish a renewal of the certificate as aforesaid. Any violation of any of the provisions of this act, shall subject the party violating the same to a penalty of five hundred dollars for each violation, and of the additional sum of one hundred dollars for each month during which any such agent shall neglect to file affidavits, statements, and certificates as are herein required. The term agent or agents used in this section shall include an acknowledged agent, surveyor, broker, or any other person who shall receive any application or make any contract for insurance, or collect or receive any premium or deliver any policy, or in any manner assist or aid in the transaction of the business of any insurance company not incorporated by the laws of this State. The provisions of this section shall apply to all foreign companies, partnerships, corporations, or individuals, whether incorporated or not. All insurance companies, associations, or corporations incorporated by or organized under the laws of any other State of the United States, or any foreign government, transacting the business of fire or inland insurance, or other kind of insurance in this State, shall make annual statements of their condition and affairs to the Secretary of State, in the same manner and in the same form as similar companies organized under the laws of this State. In case of neglect or refusal to make such annual statements of their condition and affairs as aforesaid, all persons acting in this State as agents or otherwise in transacting the business of insurance for such companies, corporations or associations, partnership or individuals, shall be subject to the same penalties provided by this act in cases of failure of any insurance company organized under the laws of this State, herein provided. Foreign insurance companies shall be required to make out and file their statements as provided in this act on the first day of January of each year, or within thirty days thereafter, made out for the year ending December thirty-first, immediately preceding such statement, shall set forth their business and affairs in the United States, duly verified by the resident manager of such company for the United States. Whenever any such foreign insurance company or corporation shall elect to discontinue business within the State, and shall have risks unexpired on property insured within the State, such company shall, before withdrawing its bonds and other securities deposited with the State Treasurer, as hereinbefore provided, reinsure in some good and solvent company authorized by this act to transact business within the State, all such unexpired risks, to the satisfaction of the insured and the Secretary of State. When such risks are so reinsured, it shall be the duty of the Secretary of State to certify the same to the State Treasurer, who shall forthwith surrender and deliver up to the said company its bonds and other securities in his custody; but no surrender or delivery of such bonds or securities shall be made by said Treasurer, except on the certificate of the Secretary of State that there are no unexpired risks within the State which

have not been reinsured by such company, as herein required. (*Ibid*, § 22.)

**26.** It shall be the duty of the Secretary of State, whenever he shall deem it expedient so to do, or when any responsible party shall file with such officer written charges against any insurance company, alleging that any return or statement filed by such company with said Secretary of State is false, or that the affairs of such company are in an unsound condition, in person, or by one or more persons, to be appointed by him for that purpose, not officers or agents of, or in any manner interested in any insurance company doing business in this State, except as policy-holders, to examine into the affairs of any insurance company incorporated in this State, or doing business by its agents in this State; and it shall be the duty of the officers or agents of any such company doing business in this State, to cause their books to be opened for the inspection of the Secretary of State, or the person or persons so appointed, and otherwise to facilitate such examination so far as it may be in their power to do, and to pay all reasonable expenses incurred therein; and for that purpose, the said Secretary of State or person or persons so appointed by him, shall have the power to examine under oath, the officers and agents of any company, relative to the business of said company; and whenever the said Secretary of State shall deem it for the best interest of the public so to do, he shall publish the results of said investigation in one or more papers in this State; and whenever it shall appear to the said Secretary of State from such examination, that the assets of any company incorporated in this State are insufficient to justify the continuance in business of any such company, he may direct the officers thereof to require the stockholders to pay in the amount of such deficiency within such period as he may designate in such requisition, or he shall communicate the fact to the Attorney-General, whose duty it shall then become to apply to the Circuit Court of the county in which the principal office of said company shall be located, for an order requiring them to show cause why the business of said company should not be closed, and the court shall thereupon proceed to hear the allegations and proofs of the respective parties; and in case it shall appear to the satisfaction of said court, that the assets and funds of said company are not sufficient, as aforesaid, or that the interests of the public so require, the said court shall decree a dissolution of said company, and a distribution of its effects. The said Circuit Court shall have power to refer the application of the Attorney-General to a referee, to inquire into and report upon the facts stated therein. Any company receiving the aforesaid requisition from the Secretary of State, shall forthwith call upon its stockholders for such amount as will make its capital equal to the amount fixed by the charter of said company, and in case any stockholder of such company shall refuse or neglect to pay the amount so called for, after notice personally given, or by advertisement, in such time and manner as the Secretary of State shall approve, it shall be lawful for the said company to require the return of the original certificate of stock held by such stockholder, and in lieu thereof to issue new certificates for such number of shares as the said stockholder may be entitled to, in the proportion that the ascertained value of the funds of the said company may be found to bear to the original capital of the said company; the value of such shares for which new certificates shall be issued, to be ascertained under the direction

of said Secretary of State, and the company paying for the fractional parts of shares; and it shall be lawful for the directors of such company to create new stock and dispose of the same and to issue new certificates therefor to an amount sufficient to make up the original capital of the company; and it is hereby declared that in the event of any additional losses accruing upon new risks taken after the expiration of the period limited by said Secretary of State in the aforesaid requisition, for the filling up of the deficiency in the capital of such company, and before said deficiency shall have been made up, the directors shall be individually liable to the extent thereof; and if upon such examination it shall appear to the said Secretary of State that the assets of any company chartered on the plan of mutual insurance under this act, are insufficient to justify the continuance of such company in business, it shall be his duty to proceed in relation to such company in the same manner as herein required in regard to joint-stock companies; and the trustees or directors of such company are hereby made personally liable for any loss which may be sustained upon risks taken after the expiration of the period limited by said Secretary of State for filling up the deficiency in the capital, and before such deficiency shall have been made up. Any transfer of the stock of any company organized under this act, made during the pending of such investigation, shall not release the party making the transfer from his liability for losses which may have occurred previous to the transfer. And whenever it shall appear to the said Secretary of State, from the report of the person or persons appointed by him, that the affairs of any company not incorporated by the laws of this State, are in an unsound condition, he shall revoke the certificates granted in behalf of such company, and shall cause a notification thereof to be published in the official State paper, mail a copy thereof to each agent of the company, and the agent or agents of such company, after such notice, shall be required to discontinue the issuing of any new policy and the renewal of any previously issued. (*Ibid*, p. 962, § 23.)

27. Every penalty provided for by this act shall be sued for and recovered in the name of the State, by the District Attorney of the county in which the company or the agent or agents so violating shall be situated, and one-half of said penalty when recovered, shall be paid into the treasury of said county, and the other half to the informer of such violation, and in case of the non-payment of such penalty, the party so offending shall be liable to imprisonment for a period not exceeding six months, in the discretion of any court having cognizance thereof; such penalties may also be sued for and recovered in the name of the State by the Attorney-General, and when sued for and collected by him, shall be paid into the State treasury. (*Ibid*, p. 963, § 24.)

28. All companies incorporated or extended under this act may provide in their charters for not more than fifty years' duration, but the legislature may, at any time, alter or amend this act, and provide for the closing up of the business and affairs of any company formed under it. Nothing herein contained shall be construed to prevent subsequent extension of the charters of companies organized or extended under this act. (*Ibid*, p. 964, § 25.)

29. Companies other than those organized under the laws of this State, which may have received certificates of authority for the year 1870, prior to the passage of this act, shall be permitted to transact the business of insurance, without further statement, until



the thirty-first day of January, 1871. Any fire or fire and inland navigation insurance company chartered by this State, may have a lien, by passing a by-law to that effect, upon the stock or certificate of profits owned by any member for any debt hereafter to become due the said company for premiums, by stating that the said stock is subject to any such lien upon the certificates of stock or profits; and such lien may be waived in writing by the consent of the president of said company upon the transfer of any such stock. (*Ibid*, § 26.)

**30.** Whenever it shall appear to the Secretary of State, from an examination made by him in the manner prescribed by law, that the capital stock of any joint-stock company, organized pursuant to law, is impaired to an amount exceeding twenty-five per cent. of such capital, and he shall be of the opinion that the interests of the public will not be prejudiced by permitting such company to continue business with a reduced capital, it shall be lawful for such company, with the permission of the Secretary of State, to reduce its capital stock and the par value of the shares thereof to such amount as the said Secretary of State, under his hand and official seal, shall certify to be proper, and as shall, in his opinion, be justified by the assets and property of such company; *Provided*, That no part of such assets and property shall be distributed to the stockholders; and *Provided, further*, That the capital stock of such company shall not be reduced to an amount less than the sum now required by law for the organization of a new company under this act, for the transaction of business at the place where such company is located, and of the kind which such company is authorized to transact. No reduction of the capital of any such company shall be made, except upon a resolution of its directors, approved by at least two-thirds of the directors, certified under its corporate seal, signed by the president and at least two-thirds of the directors, and proved or acknowledged in the manner required by law for the proof or acknowledgment of conveyances, which certificate shall be filed in the office of said Secretary of State before any action shall be had by him thereon. The Secretary of State, in case he shall permit any such company to reduce its capital in the manner provided in this act, shall execute the certificate required by this act in duplicate, and deliver one of such certificates to the officers of such company, who shall forthwith file the same with the Clerk of the Circuit Court of the county in which such company is located, and the other such certificate shall be filed in the office of the said Secretary of State. Such company, upon filing the certificate with the Clerk of the Circuit Court as required by this act, shall with such reduced capital, possess the same rights and be subject to the same liabilities that it possessed or was subject to at the time of the reduction of its capital. And the charter of such company shall be deemed to be amended in respect to the amount of capital, and the par value of the shares so as to conform to such reduction. It shall be lawful for the said company to require the return of the original certificate of stock held by each stockholder, and in lieu thereof to issue new certificates for such number of shares as each stockholder may be entitled to in the proportion that the reduced capital may be found to bear to the original capital of the company. It shall be lawful for any such company, after its capital shall be so reduced as aforesaid, to increase its capital stock in the mode prescribed by this law. It shall be the duty of all receivers and



trustees of insurance companies during the month of January in each year, and at any other time when required by the Secretary of State, to make and file annual and other statements of their assets and liabilities and of their income and expenditures, in the same manner and form and under the same penalties, as the officers of such companies are now required by law to make annual and other statements to the Secretary of State's office. Every fire or fire and inland navigation insurance company doing business in this State, shall cause its annual statement by this act required to be filed, to be published in the official State paper for two weeks, and in one daily paper of general circulation, published in the city of Milwaukee. (*Ibid*, § 27.)

**31.** It shall not be lawful for any agent or agents to act for any insurance company or companies, directly or indirectly, in taking risks or transacting business of insurance in this State, without procuring from the Secretary of State a certificate of authority, setting forth that such company has complied with all the conditions of this act. Agents appointed by any company doing business in this State, shall be held personally responsible to such company for all moneys received by them for such company, and in case any such agent shall embezzle or fraudulently convert to his own use any money belonging to such company which may have come into his possession or be under his care by virtue of his agency, shall be deemed by so doing to have committed the crime of larceny, and on conviction shall be subject to the fines and penalties provided by the Statutes in such cases. (*Ibid*, p. 965, § 28.)

**32.** Whenever the existing or future laws of any other State of the United States shall require of insurance companies, incorporated by or organized under the laws of this State, having agencies in such other States, or of the agents thereof, any deposit of securities in such State for the protection of policy-holders or otherwise, or any payment of taxes, fines, penalties, certificates of authority, license fees or otherwise, greater than the amounts required for such purposes from similar companies of other States by then existing laws of this State, then, and in every such case all companies of such States having or establishing an agency or agencies in this State, shall be and are hereby required to make the same deposit with, pay the same taxes, fines, penalties and fees, for like purposes unto the Secretary of State, imposed upon or required by the laws of such State of the companies of this State or agents thereof. (*Ibid*, § 29.)

**33.** The necessary expenditure of any examination made or ordered to be made by the Secretary of State under this act, shall be certified to by him and paid on his requisition by the company which is the subject of such examination; *Provided*, Such examination be not required of such companies organized outside of this State, in States where under the laws thereof they are similarly supervised by and under the proper officer, as in such laws provided, and such officer shall furnish, whenever required to do so by the Secretary of State, a certificate and statement exhibiting the solvency of such company. (*Ibid*, p. 966, § 30.)

**34.** There shall be paid by every company, association, person or persons or agent, to whom this act shall apply, the following fees: For filing the declaration or certified copy of charter herein required, the sum of twenty-five dollars; for filing the annual statement required, ten dollars; for each certificate of authority to

agents of all companies, doing business within this State, one dollar; for every copy of paper filed in his office, fifteen cents per folio, and for affixing the seal of said office and certifying to the same, fifty cents. In case two or more companies shall combine to effect insurance under a joint policy or policies, each and every company thus combining shall pay the fees provided herein, the same as if each and every one wrote separate policy or policies. (*Ibid*, § 31.)

**35.** It shall be the duty of the Secretary of State, for the purpose of carrying into effect a more thorough supervision and examination of the affairs of all insurance companies doing business in this State, and enabling the Secretary of State to exercise control over the same, as may be required by law, to establish in his office a department to be called the Department of Insurance, and to employ such clerical and other assistance as he shall deem necessary, and at such expense as he shall determine, to maintain and keep such department, and to enable him to take charge of and conduct, or cause to be conducted, all examinations of the business and affairs of such insurance companies that are or may be required by law, and generally to exercise such supervision and control over insurance companies doing business in this State as the law may require; *Provided*, That the whole amount of the expenses of such department in any year shall not exceed the amount of fees paid by insurance companies during that year; *and Provided*, That such expenses, in no one year shall exceed the sum of five thousand dollars; *and Provided*, That the amount of all fees over and above five thousand dollars, paid by insurance companies under section 31 of this act, shall be paid over by the Secretary of State to the State Treasurer and go to the general fund; and for all such purposes, and to that extent, the Secretary of State shall be called and held to be the Commissioner of Insurance. (*Ibid*, § 32.)

**36.** It shall be the duty of every company transacting the business of insurance under this act, to include in its annual statement, a statement showing the amount received in this State during the year for which such statement is made, in cash for premiums, in premium notes, in cash notes, and the amount received from other sources; and showing also the amount paid in this State for salaries, commissions to agents, and for losses during the same period. And each such company, before receiving a license to transact business for the current year, shall pay to the State Treasurer a sum equal to two per centum of the gross cash receipts of such company in this State, including all notes taken for premiums, during the year for which such statement is made; *Provided*, All companies chartered or organized under the laws of this State may be allowed to deduct from such gross receipts, their office expenditures and officers' salaries; *and Provided, further*, That when application for license is made by any company not organized under the laws of this State, and that shall not have transacted business within the State within one year prior to such application, the sum of five hundred dollars shall be paid by such company as a license for the first year; such sum to be computed by or under the direction of the Secretary of State, and in order to ascertain the truth of such statements, the Secretary of State may require such additional evidence as he shall deem necessary. The amount paid by the several insurance companies, as provided above, shall be in lieu of all State, county and municipal taxes and licenses, except taxes on real estate.

owned by any insurance company and exempt as provided in this act; *Provided*, That this act shall not be construed to prohibit cities and villages, having an organized Fire Department, from collecting the two per cent. now allowed by law on the receipts of each insurance company within their respective limits, to be applied to the support of the Fire Department of such cities and villages. (*Ibid*, p. 967, § 33, as amended by laws of 1873, p. 649, § 1.)

**37.** There shall be paid to the Treasurer of the Fire Department of any city or village in this State, in which there may be a regularly organized Fire Department, for the use and benefit of said Fire Department, on the first day of February in each year, by every person who shall act in said city or village as agent for or in behalf of any individual or association, or association of individuals, whether incorporated by the laws of this State or by the laws of any other State, territory or country, to effect insurance against losses or injury by fire, the sum of two dollars upon the hundred dollars, and at that rate upon the amount of all premiums, which, during the year or part of a year ending on the next preceding first day of January, shall have been received by such agent or person, or received by any other person or persons for him, or shall have been agreed to be paid for any insurance effected or agreed to be effected or promised by him as such agent or otherwise against loss or injury by fire, in any such city or village. No person shall in such city or village, as agent or otherwise for any individual, individuals or association, effect or agree to effect any insurance upon which the duty above mentioned is required to be paid, or as agent or otherwise procure such insurance to be effected, until he shall have executed and delivered to the said Treasurer a bond to the Fire Department of any such city or village, in the penal sum of one thousand dollars, with such sureties as the said Treasurer shall approve, with a condition that he will annually render to the said Treasurer, on the first day of February in each year, a just and true account, verified by his oath that the same is just and true, of all premiums which, during the year ending on the first day of January preceding such report, shall have been received by him or any other person for him, or agreed to be paid for any insurance against loss or injury by fire in any such city or village, which shall have been effected or promised by him, or agreed to be effected or promised by him to be effected, from any individual or individuals, or association, incorporated as provided in the first section of this act and that he will annually, on the first day of February in each year, pay to the said Treasurer two dollars upon every hundred, and at that rate upon the amount of such premiums. Every person who shall effect, agree to effect, promise or procure any insurance specified in the preceding sections of this chapter, without having executed and delivered the bond required by the preceding section, shall for each offense forfeit one hundred dollars for the use of said Fire Department; such penalty of one hundred dollars shall be collected in the name of the Fire Department of any such city or village. (*Ibid*, § 34, as amended by laws of 1873, p. 650, § 2.)

**38.** Every person who, at any time hereafter, as agent or otherwise for any individual or individuals or association, may in the city of Milwaukee, effect or agree to effect any insurance specified in the preceding sections of this chapter, shall on the first day of February in each year, or within ten days thereafter, and as often in each year as he shall alter or change his place of doing

business in said city, report in writing under his proper signature, to the Treasurer of the Fire Department in the city of Milwaukee, the street and number thereof in the said city, of his place of doing business as such agent or otherwise, designating in such report the individual or individuals and association or associations for which he may be such agent or otherwise; and in case of default in any of these particulars, such person shall forfeit for every offense the sum of one hundred dollars, to be recovered and collected in the name of this State, for the use of the Fire Department in the city of Milwaukee. (*Ibid*, p. 968, § 35.)

39. In case the Fire Department of any such city or village shall have no such officer as Treasurer, the provisions of this act, so far as they are applicable to him, shall apply to the Treasurer of such city, village or town, in which such village may be located, having no Treasurer, and the Treasurer of such city, village or town shall, under the direction of the proper authorities thereof, pay over all moneys received or recovered by him under the provisions of this act, to the Fire Department of such city or village. (*Ibid*, p. 969, § 36, as amended by laws of 1873, p. 651, § 3.)

40. The term "Fire Department," as used in section one, chapter 65, of the revised statutes, 1858 [37], shall be construed to mean a Fire Department consisting of at least one fire company consisting of not less than thirty members, and one hook and ladder company, consisting of not less than fifteen members, which shall be organized as provided for in chapter 176 of the general laws of 1861, entitled an act to incorporate fire companies, and shall have at least one good fire engine, with not less than five hundred feet of sound rubber or leather hose, which shall be kept in an engine-house, and to be fit and ready at all times for actual service, and any Fire Department so equipped and organized as hereinbefore described, and meeting at least once a month, and none other, shall be entitled to the benefits granted by section one, chapter 65 of the revised statutes of 1858; *Provided, however*, That nothing in this act shall be construed as relating to the Fire Department of the cities of Milwaukee, Fond du Lac, La Crosse, Janesville, Madison and Oshkosh. (*General Laws*, 1870, p. 193, § 1.)

41. It shall be unlawful for any insurance company against which a final judgment has heretofore been recovered or shall hereafter be recovered, in any court of competent jurisdiction in this State, after sixty days from the rendition of such judgment, and while the same remains unpaid, to issue any new policy of insurance; and in case any insurance company, by its officers or agent or agents shall violate the provisions of this section, such insurance company shall forfeit the sum of one thousand dollars, which may be recovered in the name of the State of Wisconsin in an action of debt, and when collected shall be paid over to the common school fund; and any agent of such company who shall knowingly violate the provisions of this section, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by fine, not exceeding five hundred dollars, nor less than one hundred dollars, or by imprisonment in the county jail of the proper county, for a term not more than three months nor less than thirty days. (*Revised Statutes*, 1871, p. 969, § 37.)

42. In all cases where any individual or insurance company or companies, authorized by laws of this State to take risks and issue policies of insurance against fires, and transact the business of



insurance in this State, whether incorporated by this or any other State, shall insure or issue a policy of insurance against loss by fire, upon the real property of any individual or incorporation in this State, and the property so insured shall be wholly destroyed, without criminal fault on the part of the assured, the amount of insurance written in said policy or policies shall be taken and deemed the true value of the property at the time of such loss, and the amount of the loss sustained by the individual or corporation in whose favor the said policy was issued, and such amount shall be taken and deemed the measure of damages. (*Laws of 1874, p. 764, § 1.*)

#### LIENS UPON BOATS AND VESSELS FOR PREMIUMS FOR FIRE OR MARINE INSURANCE.

**43.** Every boat or vessel used in navigating or running upon any of the navigable waters of this State, shall be liable for all debts contracted by the master, owner, agent, manager or consignee thereof, on account of any insurance effected upon such boat or vessel, the engines, machinery, sails, rigging, tackle, apparel or furniture thereof against any fire or marine risk, and any such indebtedness, whether remaining in open account or secured by the note or other evidence of indebtedness, of the owner, master, agent, manager or consignee of such boat or vessel or any other person, shall be and remain a lien upon such boat or vessel for one year from the time such indebtedness shall be contracted and such insurance effected, unless sooner discharged by payment, or unless such lien shall be released in writing by the insurance company, individual, association or person to whom such debt may be due or owing. (*General Laws, 1872, p. 109, § 1.*)

**44.** Any insurance company, association or person lawfully authorized to transact the business of fire or marine insurance in this State, having a demand for fire or marine insurance on any such boat or vessel as aforesaid, and which shall be a lien thereon pursuant to the first section of this act, may institute an action for the recovery thereof, and the enforcement of such lien in the circuit court of the county in which said vessel may lie, pursuant to the provisions of chapter one hundred and fifty of the Revised Statutes of this State, entitled "of proceedings for the collection of demands against boats and vessels," and the several acts amendatory thereof, and the lien hereby created may be enforced in the same manner as liens are now, or may be enforced by law in this State, against boats and vessels for materials and supplies; and all the provisions of said chapter one hundred and fifty of the Revised Statutes, and the several acts amendatory thereof, not inconsistent with the provisions of this act, are hereby declared to apply to the lien created by this act and the enforcement thereof. (*Ibid, § 2.*)

**45.** No insurance company, insurer or other person shall be allowed to enforce the lien created under the provisions of this act, as against or to the prejudice of any other creditor or subsequent incumbrance of *bona fide* purchaser, unless suit be instituted to enforce such lien with six months after the indebtedness accrues. Any such debt shall cease to be a lien unless a notice thereof, stating the name of the vessel, the amount of the debt and the date when contracted, shall be filed in the office of the Clerk of the Court of the county where such insurance shall be effected, or where the

insurance company or insurers shall hold the principal office, within twenty days after such insurance shall be effected. (*Ibid*, p. 110, § 3.)

AN ACT TO PROVIDE AGAINST EXTRAORDINARY CONFLAGRATIONS, AND FOR THE CREATION OF SAFETY FUNDS BY FIRE INSURANCE COMPANIES.

**46.** Thereafter [hereafter] it shall be lawful for any fire insurance company organized under the laws of this State to create the funds herein provided for, to be known and designated as the quarterly [guaranty] surplus fund and the special reserve fund, and to avail itself of the provisions of this act, upon complying with the requirements thereof. (*Laws of 1875*, p. 606, § 1.)

**47.** Any fire insurance company desiring to create such funds shall, and it is hereby authorized to do so upon the adoption of a resolution by its board of directors, at a regular meeting thereof, and filing with the Secretary of State a copy thereof, declaring the desire and intention of such company to create such funds and to do business under the provisions of this act; and as soon after the filing of such copy of the resolution as convenient, the Secretary of State shall make, or cause to be made, an examination of such company, and he shall make a certificate of the result thereof, which shall particularly set forth the amount of surplus funds held by such company at the date of examination, which under the provisions of this act are to, and may be equally divided between and be set apart to, constitute said guaranty surplus and special reserve funds, which certificate shall be recorded in the Insurance Department; and from and after the date of the recording of said certificate, all the policies and renewals of policies issued by said company shall have printed thereon by said company a notice that the same are issued under and in pursuance of this act, referring to the same by its chapter, date, and title, and such policies and renewals shall be deemed to have been issued and received subject to the provisions of this act. (*Ibid*, § 2.)

**48.** After the date mentioned in any such resolution so passed and filed, it shall not be lawful for such company to make, declare or pay in any form, any dividend upon its capital stock exceeding seven (7) per cent. per annum thereupon and upon the surplus funds to be formed hereunder, until after its guaranty surplus fund and its special reserve fund shall [have] together accumulated to an amount equal to its said capital stock; and the entire surplus profits of such company above such annual dividend of seven (7) per cent. shall be equally divided between, and be set apart to constitute the guaranty surplus fund and the said special reserve fund, which said funds shall be held and used as hereinafter provided, and not otherwise; and any company doing business under this act, which shall declare or pay any dividend contrary to the provisions herein contained shall be liable to be proceeded against by the Attorney-General for the [its] dissolution. (*Ibid*, § 3.)

**49.** Said guaranty surplus fund shall be held and invested by such company the same as its capital stock and surplus accumulation, and shall be liable and applicable in the same manner as the capital stock to the payment generally of the losses of such company. (*Ibid*, p. 607, § 4.)

**50.** Said special reserve fund shall be invested according to existing laws relating to investments of capital by fire insurance companies, and shall be deposited from time to time as the same shall accumulate, and be invested, with the State Treasurer, who shall permit the company depositing the same to change such deposits by substituting for those withdrawn others of equal amount and value to, and collect and receive the interests or dividends upon such securities as the same may accrue; and such special reserve fund shall be deemed a fund contributed by the stockholders to protect such company and its policy-holders other than claimants for losses already existing, or then incurred, in case of such extraordinary conflagration or conflagrations as hereinafter mentioned; and said fund shall not be regarded as any part or portion of the assets in possession of said company so as to be or render the same liable for any claim or claims for loss by fire or otherwise except as herein provided. (*Ibid*, § 5.)

**51.** In estimating the profit of any such company for the purpose of making a division thereof between said guaranty surplus fund and such special reserve fund, there shall be deducted from the gross assets of the company, including for this purpose the amount of the special reserve fund, the sum of the following items: First, the amount of all outstanding claims; second, an amount sufficient to meet the liability of such company for the unearned premiums received on policies having less than one year to run from date of policy, and a *pro rata* proportion of the premiums received on the policies having more than one year to run from date of policy, and shall be known as the reinsurance liability; third, the amount of its guaranty surplus fund and of its special reserve fund; fourth, the amount of the capital of the company, and fifth, interest at the rate of seven per cent. per annum upon the amount of the capital and of the said funds for whatever time shall have elapsed since the last preceding cash dividend; and the balance shall constitute the net surplus of the company subject to an equal division between the said funds as herein provided. (*Ibid*, § 6.)

**52.** In the event of any extensive conflagration or conflagrations, whereby the claims upon such company shall exceed the amount of its capital stock and the guaranty surplus fund provided for by this act, the said company shall notify the Secretary of State of the fact, who shall then make, or cause to be made, an examination of said company, and shall issue his certificate of the result, showing the amount of capital, of guaranty surplus fund, of special reserve fund, of reinsurance liability, and of other assets, and upon his issuing such certificate and duplicate, one copy to be given to the company and one to be recorded in the Insurance Department, the said special reserve fund shall be immediately held to protect all policy-holders of said company other than such as are claimants upon it at the time or such as became such claimants in consequence of such conflagration, or conflagrations; and the amount of said special reserve fund and an amount equal to the unearned premiums of such company, to be ascertained as hereinbefore provided, shall constitute the capital and assets of such company for the protection of policy-holders other than such claimants, and for the further conduct of its business; and such official certificate of the Secretary of State shall be binding and conclusive upon all parties interested in such company, whether as stockhold-

ers, creditors or policy-holders, and upon the payment to the claimants, for losses or otherwise, existing at the time of or caused by such general conflagration or conflagrations, of the amount to which they are respectively entitled in proportion to their several claims, of the full sum of the capital of such company, and of its guaranty surplus fund, and of its assets, excepting only such special reserve fund and an amount of its assets equal to the liability of the company for unearned premiums as so certified by the Secretary of State, such company shall be forever discharged from any and all further liability to such claimants and to each of them; and the said Superintendent shall, after issuing his said certificate, upon the demand of such company, transfer to it all such securities as shall have been deposited with him by such company as such special reserve fund; and if the amount of such special reserve fund be less than fifty per cent. of the full amount of the capital of the company, a requisition shall be issued by the said Secretary of State upon the stockholders to make up such capital to that proportion of its full amount, in a manner now provided by law in the case of companies with impaired capitals; *and Provided, further,* That any capital so impaired shall be made up to at least the sum of two hundred thousand dollars (\$200,000); and in case said company, after such requisition, shall fail to make its capital to at least said amount of \$200,000, as therein directed, said special reserve fund shall still be held as security and liable for any and all losses occurring upon policies of such company after such conflagration or conflagrations. Such company shall, in its annual statement to the Insurance Department of this State, set forth the amount of such special reserve fund and of its guaranty surplus fund. (*Ibid*, p. 608, § 7.)

**53.** If at any time after said special reserve fund shall have been accumulated by any company, it shall appear, upon examination by the said Secretary of State, that the capital of such company has in the absence of any such extensive conflagration, become impaired so as to cause him to order a call upon the stockholders to make up such impairment, the board of directors of such company may either comply with such order and require the necessary payment by the stockholders, or, at their option, they may apply for that purpose so much of said special reserve fund as will make such impairment good. No company doing business under this act shall insure any larger amount upon any single risk than is permitted by law to a company possessing the same amount of capital irrespective of the funds hereby provided for. (*Ibid*, p. 609, § 8.)

## LIFE AND ACCIDENT INSURANCE COMPANIES.

**54.** Before any life or accident insurance company shall do business in this State, it shall have a guaranty capital of at least one hundred thousand dollars paid in money, invested as hereinafter provided, or actual assets to the like amount invested in stocks of the United States or of this State, estimated at their market value, or in such other stocks and securities as may be approved by the Secretary of State, or in mortgages being first liens upon real estate, the said real estate being worth at least twice the amount of money loaned thereon, with abstract showing a good and sufficient title



and the certificate of two reputable land-holders, under oath, certifying to the value of said property. (*Revised Statutes*, 1871, p. 973, § 56.)

**55.** No policy shall be issued until a certificate from the Secretary of State has been obtained, authorizing such companies to issue such policies. The Secretary of State or some person or persons authorized by him, shall examine the capital and assets of any company applying for such certificate, and the Secretary of State shall issue the same only when satisfied that the company applying therefor has complied with the provisions of the first section of this act. Every insurance company incorporated in this State shall pay to the Secretary of State for the examination required by this section, when made, the sum of thirty dollars. (*Ibid*, § 57.)

**56.** It shall not be lawful for any person to act within this State, as agent or otherwise, in receiving or procuring applications for life insurance, or in any manner to aid in transacting the business of life insurance, referred to in the first section of this act, for any company or association incorporated by or organized under the laws of any other State government, unless such company has conformed in such State, or in this State to the same requirements in regard to capital that are imposed by section one of this act, upon companies doing business in this State, or in lieu thereof, has actual assets to the amount of at least one hundred thousand dollars invested in the same manner as is prescribed in regard to capital in section one of this act. (*Ibid*, p. 974, § 58.)

**57.** Every life or accident insurance company incorporated in this State, or doing business in the State, shall, on or before the first day of March in each year, transmit to the Secretary of State and file in his office, a statement of the business, standing and affairs, in the form described or authorized by law, and adapted to the business done by such company, signed and sworn to by the president or vice-president and secretary, and made out for the year ending on the preceding thirty-first day of December. (*Ibid*, § 59.)

**58.** All life or accident insurance companies chartered or organized in any other State of the United States, or beyond the limits of the United States, and doing business in this State, shall make an annual statement of their condition and affairs to the Secretary of State, in the same manner and in the same form as similar companies organized under the laws of this State. The Secretary of State shall have authority to extend the time for filing such statement, for reasons which he shall deem good and sufficient, whether the company is organized in this State or elsewhere. The statements herein provided for shall be in lieu of any and all statements now required by any existing law. (*Ibid*, § 60.)

**59.** Life or accident insurance companies, chartered beyond the limits of the United States and doing business in this State, shall make a return of their standing on the thirty-first day of December in each year, agreeable to the form required by this act of other companies doing a similar business in this State, said return to be made to the Secretary of State, on or before the first day of March annually, and verified and sworn to by the president, secretary or resident managing officer of such company in the United States. (*Ibid*, § 61.)

**60.** The form for life or accident insurance companies shall be as follows :

1. Name of company.
  2. When chartered.
  3. For what period.
  4. Where located.
  5. State in full the assets of the company.
  6. Number of shares owned in any bank; state par value, cost, and the market value per share.
  7. Number of shares owned in any railroad; stating the corporate name of each, and money invested in each, at cost, on its books; state the par value and market value of each share.
  8. Amount owned in railroad bonds; state par value, cost, and market value per share.
  9. Amount invested in real estate at cost, on the books of the company.
  10. Amount loaned on mortgages of real estate, and estimated value of said real estate.
  11. Amount loaned on notes secured by collaterals of personal property.
  12. Amount loaned on notes without collaterals.
  13. State in full other investments.
  14. How much, included in the foregoing statement of assets, consists of premium notes on policies not returned as now in force.
  15. Number, date, kind and amount of each outstanding policy, and age of the insured, excepting in case of companies whose policies have been valued by the proper officer in some other State, which valuation shall be shown by certificate from the Insurance Department of such State.
  16. Number and amount of each class or kind of policies which have, within the year, ceased to be in force; how terminated; what has been paid to the legal holders of the policies.
  17. Amount of losses ascertained and unpaid.
  18. Amount of losses claimed against the company, whether acknowledged as due or not by the company.
  19. Amount due from the company on its declared, promised, or acknowledged indebtedness or other claims, including dividends, bonuses on distribution of surplus, or as profits.
  20. Amount received for premiums the past year.
  21. Amount received for premiums in cash.
  22. Amount received for premiums in promissory notes or securities.
  23. Amount received for interest the past year.
  24. Amount paid for interest the past year.
  25. Amount of guaranty funds; and state particularly whether the same are in cash or subscription notes.
  26. How are dividends, distributions of surplus funds, bonuses, or estimated profits, paid? Whether in cash, scrip, or otherwise, on credit, and whether on demand; or if on credit, for what length of time, and whether payable at a specific time, or indefinitely, at the discretion of the company.
  27. Amount paid for expenses, taxes and commissions the past year, classified.
  28. Amount of dividends paid, specifying the amount paid to stockholders and the amount paid to policy-holders. (*Ibid*, p. 975, § 62.)
- 61.** The Secretary of State is hereby authorized to amend and

revise the forms of annual statements hereinbefore prescribed, and to propose such additional inquiries as are necessary to elicit a full exhibit of the business and standing of the various insurance companies doing business in this State. (*Ibid*, p. 976, § 63.)

**62.** Any company doing business in this State, neglecting to make returns in the manner and within the time hereinbefore authorized and prescribed, shall forfeit one hundred dollars for each day's neglect; and every company that willfully makes false statements, shall be liable to a fine of not less than five hundred dollars, nor more than one thousand dollars. Any new business done by any company or its agents in this State, that has neglected to make true returns in the prescribed form, shall be deemed to be done in violation of law. (*Ibid*, § 64.)

**63.** When the actual funds of any life insurance company doing business in this State, are not of a net value equal to the net value of its policies, according to the American Experience Table of Mortality, with interest at four and one-half per cent. per annum, it shall be the duty of the Secretary of State to give notice to such company and its agents, to discontinue issuing new policies within this State, until such time as its funds have become equal to its liabilities, valuing its policies as aforesaid. Any officer or agent who, after such notice has been given, issues or delivers a new policy from and on behalf of such company, before its funds have become equal to its liabilities as aforesaid, shall forfeit for each offense, a sum not exceeding one thousand dollars. (*Ibid*, § 65.)

**64.** It shall be lawful for any company organized in this State to invest its funds or accumulations in the stocks of the United States or of this State, or of any incorporated city or town in this State, or in mortgages (being first liens) on real estate, being worth at least twice the amount of the money loaned thereon, and any company may loan to policy-holders in such company, from time to time, sums not exceeding one-half the annual premiums on their policies, upon notes to be secured by the policy of the person to whom the loans may be made. (*Ibid*, § 66.)

**65.** When any life or accident insurance company, organized under the laws of this State, shall transact business in any other State, it may invest its surplus funds in such State, in like security, and under the same restrictions as in this State. (*Ibid*, p. 977, § 67.)

**66.** The Secretary of State is hereby authorized and empowered to address any inquiries to any life or accident insurance company, or to the Secretary thereof in relation to its doings or conditions or any other matter connected with its transactions, and it shall be the duty of any such company so addressed to reply promptly in writing to any such inquiries; and all such companies, not incorporated under the laws of this State, failing to answer all such inquiries, shall not be authorized to transact any business in this State, and their certificates of authority may be revoked and canceled. It shall be the duty of the Secretary of State to make or cause to be made, an examination of the condition and affairs of any life or accident insurance company doing business in this State, whenever he shall deem it expedient to do so, and also whenever he shall have good reason to suspect the correctness of any annual statement, or that the affairs of any company making such statements are in an unsound condition. (*Ibid*, § 68.)

**67.** Life or accident insurance companies doing business in this State, which do business upon the principle of mutual insur-

ance, or the members of which are entitled to share in the surplus fund thereof, may make distribution of such surplus as they may have accumulated, annually, or once in two, three, four or five years, as the directors thereof may from time to time determine. In determining the amount of the surplus to be distributed, there shall be reserved an amount not less than the aggregate net value of all the outstanding policies; said value to be computed by the American Experience Table of Mortality, with interest not exceeding four and one-half per cent. (*Ibid*, § 69.)

**68.** Every life or accident insurance company not organized in this State, before doing business in this State, shall appoint an attorney, resident in this State, upon whom all lawful processes against the company may be served with like effect as if the company existed in this State; and said power of attorney shall stipulate and agree, on the part of the company making the same, that any lawful process against said company, which is served on said attorney, shall be of the same legal force and validity as if served on said company. A copy of said power of attorney, duly certified and authenticated, shall be filed in the office of the Secretary of State, and copies certified by him shall be sufficient evidence. This agency shall be continued while any liability remains outstanding against the company in this State, and the power shall not be revoked until the same power is given to another, and a like copy filed as aforesaid. Service upon said attorney shall be deemed sufficient service upon the company. (*Ibid*, § 70.)

**69.** The Treasurer of the State, in his official capacity, shall take and hold on deposit, the securities of any life insurance company incorporated under the laws of this State, which are deposited by any such company for the purpose of securing policy-holders and complying with the law of any State, in order to enable such company to transact business in such State. The companies depositing such securities shall have the right to receive the income thereof, and at any time to exchange the same, according to the laws of the State in which they may be doing business. (*Ibid*, p. 978, § 71.)

**70.** If any life insurance company organized in this State, or in any other State of the United States, or in any foreign country, whose policies are not valued by the Insurance Department or proper officers of any other State, shall transact business in this State, it shall be the duty of the Secretary of State to calculate the existing value of all outstanding policies of such company; and every such company shall pay, annually, to the Secretary of State, by way of compensation, one cent on every thousand dollars for the valuation of its policies issued by it on lives. A certified copy of the valuations of the policies of any company organized in this State, or any other State, made by the Insurance Department or other proper officers of the States of Massachusetts or New York, filed in the office of the Secretary of State, shall be a compliance with this section. (*Ibid*, § 72.)

**71.** No life insurance company organized under the laws of this State shall issue policies insuring fire, or marine, or accident, or live stock risks, nor do any banking business. (*Ibid*, § 73.)

**72.** Whenever the existing or future laws of any other State of the United States shall require of life insurance companies, incorporated by or organized under the laws of this State, or of the agents thereof, any deposits or securities in such State for the protection of policy-holders or otherwise, or any payment for taxes,



finer, penalties, certificates of authority, license fees or otherwise, greater than the amount required for such purposes from similar companies of other States, by the then existing laws of this State, then, and in every such case, all life or accident insurance companies of such States establishing or having heretofore established an agency or agencies in this State, shall be and are hereby required to make the same deposit for a like purpose with the State Treasurer of this State, and to pay to the Secretary of State for taxes, fines, penalties, certificates of authority, license fees or any other obligation, an amount equal to the amount of such charges and payments imposed by the laws of such other State upon the companies of this State, and the agents thereof. (*Ibid*, p. 979, § 75.)

**73.** Every life or accident insurance company not organized under the laws of this State, shall before doing business in this State, deposit with the Secretary of State a copy of the charter of the company, and a statement signed and sworn to by the president or vice-president and secretary, in the form prescribed or authorized for the annual statement adapted to the business done by such company. (*Ibid*, § 76.)

**74.** Whoever solicits insurance on behalf of any life or accident insurance company not chartered by and not established within this State, or transmits, for any person other than himself, an application for life or accident insurance, or a policy of life or accident insurance, to or from such company, or advertises that he will receive or transmit the same, shall be held to be an agent of such company to all intents and purposes, and subject to all the duties, requisitions, liabilities and penalties set forth in the laws of this State, relating to life or accident insurance companies not incorporated by the legislature thereof. (*Ibid*, § 77.)

**75.** Any agent making insurance in violation of any law of this State regulating life insurance companies, shall forfeit for each offense, a sum not exceeding five hundred dollars. (*Ibid*, p. 980, § 78.)

**76.** For filing the annual statement required in the office of the Secretary of State, the said Secretary shall be paid twenty-five dollars; for each agent's certificate of authority, one dollar; for every copy of a paper filed in the Secretary's office, twenty cents per folio, and for affixing the seal of said office to such copy and certifying the same, one dollar; and for examining the affairs of any company, when deemed necessary, the expenses incurred therein shall be paid to said Secretary of State by the company. (*Ibid*, § 79.)

**77.** The Secretary of State shall annually, on or before the first day of May, prepare and print in a single document, the information contained in the statements made under this act, and shall communicate the same to the legislature. He shall also cause the annual statements required to be filed by this act, to be published in the official State paper for one week, and for the like period in a newspaper published in the city of Milwaukee, at the expense of such companies respectively. (*Ibid*, § 80.)

**78.** It shall be unlawful for any life or accident insurance company against which a final judgment has heretofore been recovered or shall hereafter be recovered in any court of competent jurisdiction in this State, after sixty days from the rendition of such judgment and while the same shall remain unpaid, unless execution be stayed by appeal according to law, to issue any new policy of insurance, and in case any life insurance or accident company by its

officers or agent or agents shall violate the provisions of this section, such life or accident insurance company shall forfeit the sum of one thousand dollars, which may be recovered in the name of the State of Wisconsin in an action of debt, and when collected shall be paid over to the common school fund. And any agent of such company who shall knowingly violate the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by fine not exceeding five hundred dollars, nor less than one hundred dollars, or by imprisonment in the county jail of the proper county for a term not more than three months, nor less than thirty days; *and Provided*, That the Provident Life Insurance Company of Chicago, State of Illinois, and the Eagle Insurance Company of Chicago, State of Illinois, shall not be permitted to issue any policy of insurance in this State, and shall not have any right or privileges whatever under or by virtue of this act. (*Ibid*, § 81).

**79.** No life or life and accidental insurance company shall transact business in this State without first having obtained a license therefor from the Secretary of State, which license when issued shall authorize the insurance company named therein and the agents thereof, to transact business in this State until the last day of February following the date thereof. No such license shall be issued by the Secretary of State to any life, or life and accidental insurance company until such company shall have filed in the office of the Secretary of State, the reports and statements in this act required, and shall have paid to the State Treasurer in addition to the fees in this act prescribed, an annual license fee of three hundred dollars, and all life and life and accident companies organized in this State under special charters granted for that purpose, or under general laws, shall pay into the State treasury one per cent. on the cash receipts for premiums received by such company in the State of Wisconsin for the year preceding the making of the annual report as hereinbefore provided, which sum shall be paid to the State Treasurer at the time such report is filed with the Secretary, for which sum so paid the State Treasurer shall execute duplicate receipts. The payment of the sum provided in this section, shall be in lieu of all taxes for any purpose authorized by the laws of this State, excepting taxes upon such real estate as may be owned by such company; *Provided*, That nothing in this act shall be construed to relieve any company from the payment of any license fees or taxes now due under existing laws upon business transacted prior to January first, 1870. (*Ibid*, p. 981, § 82.)

#### DEPOSIT OF SECURITIES WITH STATE TREASURER.

**80.** It shall be the duty of the State Treasurer to receive and hold in trust for the policy-holders of any insurance company incorporated by the laws of this State, such bonds, stocks or other securities as may be offered by such company; and upon application of said company, to give such a certificate from year to year of such a deposit, as may be required by the laws of other States, in order to the transaction of the business of insurance therein. Nothing herein contained shall be so construed as to prevent such companies from collecting or receiving the interest accruing upon such securities, or from withdrawing such deposit, or from changing such securities

from time to time as may be desired by said company so depositing. (*Revised Statutes*, 1871, p. 973, § 55.)

## AGENTS OF INSURANCE COMPANIES.

**81.** Whoever solicits insurance on behalf of any fire, marine, inland, life or accident insurance company, or transmits for any person other than himself an application for insurance, or a policy of insurance, to or from said company, or advertises that he will receive or transmit the same, shall be held to be an agent of such company to all intents and purposes, unless it can be shown that he receives no commission or other compensation or consideration for such service. (*Revised Statutes*, 1871, p. 981a, § 84.)

**82.** No corporation, association, partnership or individual, doing business in this State under any charter, compact or agreement involving any insurance, guaranty, contract pledge for the payment of annuities or endowments, or for the payment of moneys to the families or representatives of policy or certificate holders or members, shall make such insurance, guaranty or contract therein or with any resident of this State, except in accordance with and under the conditions and restrictions of the statutes now or hereafter regulating the business of life insurance. (*Ibid*, § 85.)

**83.** No officer, agent or sub-agent of any insurance company shall act or aid in any manner in transacting the business of insurance of or with such company, or placing risks, or effecting insurance therein, without first procuring from the Secretary of State a certificate of authority so to do for each company for which he proposes to act, which shall state in substance that such company is duly authorized to do business in this State under the laws thereof, and that such agent or other person has duly complied with the laws relating to the agents of such companies. The Secretary of State, upon being satisfied of the facts to be stated therein shall grant such certificate, which in case of fire, marine or inland companies shall continue in force until the thirty-first day of January next after the date thereof, and in case of life or accident companies, until the first day of March next after the date thereof, unless sooner revoked by the Secretary of State for non-compliance with the laws aforesaid, and shall be renewed on said days and annually thereafter, so long as the company and its agents continue to comply with said laws. (*Ibid*, § 86.)

**84.** Every agent soliciting insurance shall exhibit his certificate of authority, when requested to by any person, and a refusal or failure so to do shall be presumptive evidence that such agent is doing business contrary to law. (*Ibid*, p. 981b, § 87.)

**85.** Whoever violates the provisions of this chapter shall be punished by a fine not exceeding five hundred dollars, nor less than fifty dollars for each offense, which shall be sued for and recovered in the name of the State by the District Attorney of the county in which the company or the agent or agents so violating shall be located or doing business, and one-half of said penalty when recovered shall be paid into the treasury of the said county, and the other half to the informer of such violation. In case of the non-payment of such penalty, the party so offending shall be liable to imprisonment for a period not exceeding six months; in the discretion of any court having cognizance thereof; such penalties may

also be sued for and recovered in the name of the State by the Attorney-General, and when sued for and collected by him, shall be paid into the State treasury. (*Ibid*, § 88.)

## CHANGING SUITS FROM STATE TO UNITED STATES COURTS.

**86.** If any insurance company or association shall make application to change the venue or remove any suit or action heretofore commenced or which shall be hereafter commenced in any court of the State of Wisconsin, to the United States circuit or district court, or to the federal court, contrary to the provisions of any law of the State of Wisconsin, or contrary to any agreement it has made and filed, or may make and file as provided and required by section number twenty-two (22) of chapter fifty-six (56) of the general laws of Wisconsin, for the year A. D. 1870, or any other provision of law now in force in said State, or may hereafter be enacted therein, it shall be the imperative duty of the Secretary of State, or other proper State officer, to revoke and recall any authority or license or certificate to such company, to do and transact any business in the State of Wisconsin, and no renewal or new license or certificate shall be granted to such company for three years after such revocation, and such company shall therefore [thereafter] be prohibited from transacting any business in the State of Wisconsin until again duly licensed. (*General Laws*, 1872, p. 67, § 1.)

**87.** In case any insurance company or association incorporated by, or organized under the laws of any other State of the United States, or any foreign government, shall have previous to the passage of this act, made application to any court of this State to change the venue or place of trial to the federal courts or United States circuit or district courts in any suit commenced or pending in such State court contrary to the provisions of said chapter fifty-six (56) of the General Laws of Wisconsin for the year A. D. 1870, or any other law of said State, or contrary to any agreement which such company or association may have made and filed according to section twenty-two (22) of chapter fifty-six (56) of the General Laws of Wisconsin for 1870, or any other law of said State, and an order has not been made by such State court or the judge thereof, changing the venue or place of trial to the said United States or federal court or courts, unless such company or association shall, within sixty days after the passage and publication of this act, make and file in such action in whatever court the same may then be pending, a stipulation withdrawing such application, and wholly abandoning the same, the Secretary of State or other proper State officer, shall recall and revoke any license, certificate or authority to such company or association to do or carry on business in the State of Wisconsin. And in case any such company or association shall refuse or neglect to make and file such stipulation as above provided, such company or association shall be prohibited from doing or carrying on business in the State until again duly licensed as hereinafter provided, and no new license or renewal of license or certificate shall be granted to such company or association to do or transact any business in the State of Wisconsin for three years next after its neglecting to make and file such a stipulation. (*Ibid*, § 2.)

**88.** If any insurance company or association shall make appli-



cation to remove any case from the State Court into the United States Circuit or District Court or Federal Court, contrary to the provisions of chapter fifty-six (56) of the General Laws of Wisconsin, for the year A. D. 1870, or any other State law, or contrary to any agreement which such company may have filed in pursuance of said chapter fifty-six (56) of the General Laws of Wisconsin for the year A. D. 1870, or any other law of the State of Wisconsin, it shall be liable, in addition to a penalty of not less than one hundred dollars or more than five hundred dollars, for each application so made, or for each offense so committed for making such application, the same to be recovered by suit in the name of the State of Wisconsin; and it shall be the imperative duty of the Attorney-General of the State of Wisconsin to see and attend, that all the provisions of said chapter fifty-six (56) of the General Laws of 1870, and the provisions of this act are duly enforced. (*Ibid*, p. 68, § 3.)

### CONDITIONS IN POLICIES.

**89.** No person, company, association or corporation, shall insert or incorporate in any contract, mortgage, note, bond, obligation, or policy of insurance, any condition, or provisions, providing or prescribing in what court or courts any suit or action may be brought thereon, or providing that no action or suit shall be brought thereon, or for the breach of any of the provisions or conditions thereof in any of the courts in this State, and all and any such conditions or provisions, that may be inserted or incorporated in any such contract, mortgage, note, bond, obligation, or policy of insurance, shall be null and void and of no effect; and any renewal of any policy of insurance, containing any such provisions or conditions, shall not be a renewal of any such conditions or provisions therein, but shall be deemed a renewal thereof, except such conditions and provisions. (*Laws of 1874*, p. 117, § 1.)

**90.** If any insurance company, association or corporation, organized under any laws, other than those of the State of Wisconsin, shall violate any of the provisions of this act, their license to do business in this State shall be forfeited; *Provided*, That no such forfeiture shall take place, for any violations of the provisions of this act, within sixty days after this act shall go in effect. (*Ibid*, p. 118, § 2.)

### SERVICE OF PROCESS ON FOREIGN INSURANCE COMPANIES.

**91.** Any and all summons or process in any action or proceeding in any court, or hereafter to be begun or had in any court in this State, against any insurance company doing business in this State but not incorporated by or under the laws of this State, may be served on any agent or agents of any such insurance company in this State, and any and every such service shall be deemed a valid personal service upon any such insurance company. (*Laws of 1875*, p. 333, § 1.)

**92.** The term agent or agents used in the foregoing section shall include an agent, surveyor, broker or any person who shall receive any application or make any contract for insurance, or collect or receive any premium or deliver any policy. (*Ibid*, p. 334, § 2.)

## APPLICATIONS FOR INSURANCE.

**93.** It is hereby made the duty of every insurance company doing business in this State to deliver to each and every person insured at the time of delivering the policy of insurance, a duplicate copy of the application for insurance; and if any insurance company shall for any cause fail or omit to deliver such duplicate copy of such application to the person insured, at the time of delivering the policy of insurance, then such application shall not be evidence for such insurance company in any court, anything in the policy to the contrary notwithstanding; *Provided, always,* That the provisions of this section shall not apply to such cases where all the material facts contained in the application are stated at length in the policy. (*Revised Statutes, 1871, p. 973, § 54.*)

## TOWN MUTUAL FIRE INSURANCE COMPANIES.

**94.** It shall be lawful for any number of persons not less than twenty-five, residing in adjoining towns in this State, who shall own collectively property of not less than twenty-five thousand dollars in value, which they desire to have insured, to form themselves into a company for mutual insurance against loss or damage by fire or lightning, which corporation shall possess the usual powers and be subject to the usual duties of corporations, and the corporate name thereof shall embrace the name of the town in which the business office of said company shall be located; *Provided, however,* That the adjoining towns in which the said persons reside and in which they shall have authority to do a business of mutual insurance, shall not exceed fifteen in number. (*Laws of 1875, p. 371, § 1.*)

**95.** Every company so formed shall choose of their number not less than five nor more than nine directors, to manage the affairs of such company, who shall hold their office for one year, and until others are elected; and such directors shall choose one of their number president, and one as secretary. (*General Laws of 1872, p. 117, § 2.*)

**96.** The directors of such company shall file their articles of association, together with a copy of their by-laws and the names of the officers of such company, in the Clerk's office of the town in which the office of such company is located, and shall keep a record of their proceedings in a book to be kept for that purpose, together with the names of all persons insured and the amount each person is insurer; which record shall be kept open for the inspection of all the members of such company, from the hours of nine o'clock A. M., to four o'clock P. M., of each secular day, the established holidays excepted. (*Ibid, § 3.*)

**97.** The directors of such company may issue such policies, signed by the president and secretary, agreeing in the name of the company to pay all loss or damages which may be sustained by fire or lightning for a term not exceeding five years, by the holders of such policies, and not exceeding the sum named in such policy. (*Ibid, § 4.*)

**98.** Every person so insured shall give his undertaking, bearing even date with the policy so issued to him, binding himself, his heirs and assigns, to pay his *pro rata* share to the company of all losses

or damages by fire or lightning, which may be sustained by any member thereof; and every such undertaking shall, within ten days after the acceptance by the said company of said undertaking, be filed in the office of the secretary of such company, and shall remain on file in such office except when required to be produced in court as evidence. He shall also at the time of effecting such insurance, pay such percentage in cash, and such reasonable sums for a policy as may be required by the rules or by-laws of the company. (*Ibid*, § 5, *as amended by laws of 1875, p. 448, § 1.*)

**99.** Every member of such company who may sustain loss or damage by fire or lightning, shall immediately notify the president of such company, or in case of his absence, the secretary thereof, who shall forthwith convene the directors of such company, whose duty it shall be, when so convened, to appoint a committee of not less than three nor more than five members of such company, to ascertain the amount of such loss; and in case of the inability of the parties to agree upon the amount of such damages, the claimant may appeal to the Judge of the County Court of such county, whose duty it shall be to appoint three disinterested persons as a committee of reference, who shall have full authority to examine witnesses and to determine all matters in dispute, who shall make their award in writing to the president, or, in his absence, to the secretary of such company, which award thereon shall be final. The said committee of reference shall each be allowed the sum of two dollars per day for each day's service so rendered, and the sum of five cents per mile for every mile necessarily traveled in the discharge of such duties, which shall be paid by the claimant, unless the award of said committee shall exceed the sum offered by the company in liquidation of such loss or damage, in which case said expenses shall be paid by the company. (*Ibid*, § 6.)

**100.** The companies formed under the provisions of this act may classify the property insured at the time of issuing policies thereon, under different rates, corresponding as nearly as may be to the greater or less risk from fire and loss which may attach to each several buildings or personal property insured. Whenever the amount of any loss shall be ascertained, which exceeds in amount the cash funds of the company, the president shall convene the directors of said company, who shall make an assessment upon all property insured to the amount for which each several piece of property is insured, taken in connection with the rate of premium under which it may have been classified. (*Ibid*, p. 118, § 7.)

**101.** It shall be the duty of the Secretary, whenever such assessment shall have been completed, to immediately notify every person composing such company, by letter sent to his usual post-office address, of the amount of such loss, and the sum due from him as his share thereof, and of the time when and to whom such payment is to be made, but such time shall not be less than sixty nor more than ninety days from the date of such notice, and every person designated to receive such money may demand and receive two per cent. in addition to the amount due on such assessment as aforesaid, for his fees in receiving and paying over the same. (*Ibid*, § 8, *as amended by laws of 1873, p. 467, § 2.*)

**102.** Suits at law may be brought against any member of such company, who shall refuse or neglect to pay any assessment made upon them by the provisions of this act, and the directors of any company so formed, who shall willfully neglect or refuse to per-

form the duties imposed upon them by the foregoing sections of this act, shall be liable in their individual capacity to the person sustaining such loss. (*Ibid*, p. 119, § 9.)

**103.** No company founded under this act shall insure any property out of the town or towns in which the said company is located, nor shall they insure any property other than detached dwellings and their contents, and farm buildings and their contents, and live stock while on the premises, or running at large, and hay and grain in the bin or stack; *Provided, however*, That if the majority of the directors of such company deem it proper to insure school-houses and churches, and the furniture in said school-houses and churches, it shall be lawful for them to insure the same, not to exceed fifteen hundred dollars (\$1,500) in any one risk, but they shall not insure any property within the limits of any incorporated village or city in this State. (*Ibid*, § 10, as amended by laws of 1875, p. 653, § 1.)

**104.** The directors of each company so formed shall be chosen by ballot, at the annual meeting thereof, which shall be held on the first Tuesday of January in each year, unless otherwise determined by a majority of the voters in such company, and every person shall have one vote for each two hundred dollars for which he may be insured, but no person shall be allowed to vote by proxy at such election. (*Ibid*, § 11, as amended by laws of 1873, p. 467, § 4.)

**105.** It shall be the duty of the secretary of every company as aforesaid, to prepare a statement showing the condition of such company on the day preceding their annual meeting, which statement shall contain the amount insured, the number of policies issued, and to whom, and the amount insured by each policy, and all other matters pertaining to the interests of such company, which statement shall be filed in the office of the town clerk, in which said company may be located, on or before the fifteenth day of January in each year, and which statement shall also be read to the members of said company at their annual meeting. (*Ibid*, § 12.)

**106.** Any member of such company may withdraw therefrom at any time, by giving notice in writing to the president, or in his absence, to the secretary thereof, and paying his share of all claims then existing against said company; and the directors, or a majority thereof, shall have power to annul any policy by giving notice in writing to that effect to the holder thereof. (*Ibid*, § 13.)

**107.** Non-residents of any town in this State, owning property therein, may become members of any company founded under this act, and shall be entitled to all rights and privileges appertaining thereto, except that it shall not be lawful for such non-resident to become a director of said company, unless he be at the time of such membership a resident of a town adjoining the town or towns in which said company has been formed under the provisions of this act. (*Ibid*, p. 120, § 14.)

**108.** The company so formed may adopt such by-laws for its regulation as are not inconsistent with the provisions of this act, and may therein prescribe the compensation of its officers. (*Ibid*, § 15.)

**109.** No company formed under this act shall continue for a longer term than thirty years. (*Ibid*, § 16.)

**110.** This act shall apply to all companies heretofore organized in compliance with the provisions of chapter forty-six of the general laws of 1859, and the amendments thereto. (*Ibid*, § 17.)



**111.** It shall be lawful for any organized town insurance companies in this State, without reorganization, to insure the real and personal property of the inhabitants of any adjoining towns in the same county where such town insurance company may be located, in the same manner and at the same rates of insurance as said town insurance companies are now or may be hereafter permitted to do under the present town insurance laws, and their corporate by-laws. (*Laws of 1875, p. 599, § 1.*)

**112.** It shall be lawful for such organized town insurance companies, from time to time, as occasion requires, to choose any of their officers from such adjoining towns, as they would be permitted to do if such adjoining towns had been embraced in their territory at its organization. (*Ibid, § 2.*)

### LIFE INSURANCE FOR THE BENEFIT OF MARRIED WOMEN AND CHILDREN AND OTHERS.

**113.** It shall be lawful for any married woman, by herself and in her own name, or in the name of any third person, with his assent as her trustee, to cause to be insured for her sole use, the life of her husband, son, or other person for any definite period, or for the term of the natural life of such person; and it shall be lawful for any person effecting or causing to be procured or effected any policy of insurance of the life of any person, to assign, transfer or cause the same to be made payable to any married woman or to any person in trust, for her or her benefit, whether the person effecting or procuring such insurance or making such assignment or transfer be the husband of such married woman or not, and such policy of insurance, when expressed to be for the benefit of or assigned, transferred or made payable to any married woman, shall inure to her separate use and benefit and that of her children, and in case of her surviving such period or term, the sum or net amount of the insurance becoming due and payable by the terms of the insurance, shall be payable to her, to and for her own use and benefit, free from the claims of her husband, his representatives or creditors, and free from the claims of the person effecting, assigning or transferring such insurance, his representatives or creditors; *Provided, however,* That if the premium on such policy is paid by any person with the intent to defraud his creditors, an amount equal to the premium so paid, with the interest thereon, shall inure to the benefit of said creditors, subject, however, to the statute of limitations. The amount of the insurance may be made payable, in case of the death of the wife, before the period at which it becomes due, to his, her or their children for their use, as shall be provided in the policy of insurance, and to their guardian, if under age, and the receipt of such married woman or of such children, or of their guardian, if minors, in the cases in which such insurance is payable to them or either of them, pursuant to the terms of the policy and the provisions of this act, shall relieve the insurance company from all further liability therefor. The provisions of this section shall apply to all insurances on lives effected before the passage of this act. (*Revised Statutes, 1871, p. 978, § 74.*)

**114.** On the death of any minor, who shall have insured his or her life for the benefit of his or her legal heirs, and such legal heirs shall be a father or mother, the sum so insured and become

payable, except so much of the same as shall be necessary to pay the debts of such deceased minor, shall vest in and become the property of such legal heirs, and shall be exempt from seizure or sale on any process of attachment, execution or garnishee, issued out of any court in this State, at the suit of the creditors of such legal heirs. (*Ibid*, p. 981, § 83.)

## ARSON AND INCENDIARISM.

**115.** Every person who shall willfully and maliciously burn, in the night-time, the dwelling-house of another, whereby the life of any person shall be destroyed, or shall in the night-time willfully and maliciously set fire to any other building, owned by himself or another, by the burning whereof such dwelling-house shall be burnt in the night-time whereby the life of any person shall be destroyed, shall suffer the same punishment as provided for the crime of murder in the second degree; but if the life of no person shall have been destroyed, he shall be punished by imprisonment in the State prison, not more than fourteen years nor less than seven years; and if at the time of committing the offense there was no person lawfully in the dwelling-house so burnt, he shall be punished by imprisonment in the State prison, not more than ten nor less than three years. (*Ibid*, p. 1838, § 1.)

**116.** Every person who shall willfully and maliciously burn, in the day-time, the dwelling-house of another, or any building adjoining such dwelling-house, and shall willfully and maliciously set fire to any building owned by himself or another, by the burning whereof such dwelling-house shall be burnt in the day-time, or shall in the day-time willfully and maliciously set fire to any building owned by himself or another, by the burning whereof such dwelling-house shall be burnt in the night-time, shall be punished by imprisonment in the State prison, not more than fifteen years nor less than five years. (*Ibid*, § 2.)

**117.** Every person who shall willfully and maliciously burn in the night-time, any meeting-house, church, court-house, town-house, college, academy, jail, or other building erected for public uses, or any ship, steamboat, or other vessel, or any banking-house, warehouse, store, manufactory, or mill of another, or any barn, stable, shop, or office of another, within the curtilage of any dwelling-house or any other building, by the burning whereof any building mentioned in this section shall be burnt in the night-time, shall be punished by imprisonment in the State prison, not more than fifteen years nor less than five years. (*Ibid*, § 3.)

**118.** Every person who shall willfully and maliciously burn, in the day-time, any building mentioned in the next preceding section, the punishment for which, if burnt in the night-time, would be imprisonment in the State prison not more than fifteen years nor less than five years, shall be punished by imprisonment in the State prison, not more than eight years nor less than four years. (*Ibid*, p. 1839, § 4.)

**119.** Every person who shall willfully and maliciously burn, either in the night-time or day-time, any banking-house, warehouse, store, manufactory, mill, barn, stable, shop, office, out-house, or other building whatsoever of another, other than is mentioned in the third section of this chapter, or any bridge, lock, dam, or flume,

shall be punished by imprisonment in the State prison, not more than eight years nor less than four years. (*Ibid*, § 5.)

**120.** Every person who shall willfully burn any building, or any goods, wares, merchandise, or other chattels, which shall be at the time insured against loss or damage by fire, with intent to injure the insurer, whether such person be the owner of the property or not, shall be punished by imprisonment in the State prison, not more than ten years nor less than three years. (*Ibid*, § 8.)

**121.** For General Provisions relating to Corporations see Revised Statutes, 1871, pp. 1026-1033, 1728-1736; Laws of 1872, pp. 132, 133; Laws of 1874, pp. 33, 34, 173-177, 709, 710; Laws of 1875, pp. 639-641.

# INSURANCE STATUTES OF ARIZONA TERRITORY.

## TAX ON INSURANCE COMPANIES.

**1.** Each and every insurance company incorporated under the laws of any other State or Territory shall pay an annual tax of two hundred dollars to the Treasurer of the county in which their business office is situated, and take his receipt therefor, specifying the kind of business to be done, and which shall be a sufficient license; *Provided*, That no license under the provisions of this section shall be issued for less than one year. (*Compiled Laws of Arizona*, 1871, chap. 49, § 5, pp. 526, 527.)

## LIFE INSURANCE FOR THE BENEFIT OF MARRIED WOMEN AND CHILDREN.

**2.** It shall be lawful for any married woman by herself, or in her name, or in the name of any third person with his assent as her trustee, to cause to be insured for her sole use the life of her husband for any definite period, or for the term of his natural life; and in case of her surviving her husband, the sum or net amount of the insurance becoming due and payable by the terms of the insurance shall be payable to her, to and for her own use, free from the claims of the representatives of her husband or his creditors; but such exemption shall not apply as against creditors only where the amount of the premium annually paid shall exceed three hundred dollars, such surplus shall be applied to the payment of the debts of the deceased. (*Act approved December 30, 1865*, § 32.)

**3.** In case of the death of the wife before the decease of her husband the amount of the insurance may be made payable to her children, and shall be received by them, or, if under age, by their legal guardian for their use. (*Ibid*, § 33.)

## ARSON AND INCENDIARISM.

**4.** Every person who shall willfully and maliciously burn, or cause to be burned, any dwelling-house, kitchen, office, shop, barn, stable, store-house, warehouse or other building, the property of any other person, or any church, meeting-house, school-house, State-house, court-house, work-house, jail or other public building, or any ship, vessel, boat, or other water-craft, or any bridge of the value of fifty dollars or more, erected across any of the waters of this Territory, such person so offending shall be deemed guilty of arson, and upon conviction thereof, shall be punished by imprisonment in the Territorial prison for a term not less than one year nor more than ten years; and should the life or lives of any person or persons be lost in consequence of any such burning as aforesaid, such offender shall



be deemed guilty of murder, and shall be indicted and punished accordingly. (*Compiled Laws, 1864-1871, p. 78, §§ 10 and 56.*)

5. Every person who shall willfully and maliciously set fire to any of the buildings or other property described in the foregoing section, with the intent to burn and destroy the same, upon conviction thereof shall be punished by imprisonment in the Territorial prison for any term not exceeding two years. (*Ibid, §§ 10 and 57.*)

### EMBEZZLEMENT.

6. Every servant, officer or person employed in any public department, station or office of the government of this Territory, or of any county of this Territory, or in any office of a corporate body, who shall embezzle, steal, secrete or fraudulently take and carry away any money, goods, chattels, effects, book or books, of record, or of account, bond or bonds, promissory note or notes, bank bills or notes, or any other writing or security for the payment of money or property of whatever description it may be, being the property of said Territory, county or corporate body, shall, on conviction thereof, be punished by imprisonment in the Territorial prison for a term not less than one year nor more than ten years. (*Ibid, chap. 10, p. 79, § 66.*)

7. For General Provisions relating to Corporations see *Compiled Laws, 1864-1871, pp. 483-488.*

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## INSURANCE STATUTES OF COLORADO TERRITORY.

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1. All agents of foreign insurance companies shall, upon their acceptance of such agencies, signify the same in writing, to the Clerk of their respective counties, which notice shall be filed by the Clerk in his office, which shall entitle the agent to grant policies of insurance, according to the laws governing the company of such agency. (*Revised Statutes, 1868, p. 426, § 16.*)

2. If any person carry on or transact any business, or occupation, without license therefor, when such license is required by any law of this territory, he shall, on conviction thereof, be fined in a sum not exceeding three hundred dollars, or imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment. (*Ibid, § 17.*)

3. Insurance companies of every description, existing in other States or Territories, and operating in this, shall be taxed one per cent. for territorial purposes, upon the amount of the premiums taken by them during the year previous to the listing in the county where the agent conducts that business; and the agent shall render the list, and shall be personally liable for the tax; and if he refuses to render the list, or to swear as herein required, the amount may be assessed according to the best knowledge and discretion of the assessor. (*Act Approved Feb. 11, 1870, § 15.*)

4. Every incorporated company incorporated under the laws

of any foreign state or kingdom, or of any State or Territory of the United States, beyond the limits of this Territory, and now or hereafter doing business within this Territory, shall, within thirty days after commencing so to do business, file in the office of the Clerk of the county within which their business is conducted, a copy of their charter of incorporation; or in case such company is incorporated by certificate under any general incorporation law, a copy of such certificate and of such general incorporation law, duly certified and authenticated by the proper authority of such foreign state, kingdom or territory. (*Revised Statutes*, 1868, p. 150, § 1.)

5. A failure to comply with the provisions of this article shall render each and every officer, agent and stockholder of any such corporation so failing herein, jointly and severally personally liable on any and all contracts of such company made within this Territory, during the time that such corporation is so in default. (*Ibid*, § 2.)

6. The several certificates, statutes and charters mentioned in section first of this article, shall be by the County Clerk filed and preserved in his office, as a part of the records thereof; and he shall be entitled to receive a fee of fifty cents for receiving and filing every such certificate and statute. Copies of such charters, statutes and certificates, duly certified by such County Clerk, under his seal of office, shall be received in all courts of this Territory as sufficient evidence of the corporate character of such incorporations, and of all their powers, duties and liabilities, and the originals thereof may in like manner be used in evidence of these matters with like effect. (*Ibid*, § 3.)

### ARSON AND INCENDIARISM.

7. Every person who shall willfully and maliciously burn, or cause to be burned, any dwelling-house, kitchen, office, shop, barn, stable, store-house, warehouse, factory, mill, pottery, or other building, the property of any other person, or any church, meeting-house, school-house, state-house, court-house, work-house, jail, or other public building; or any boat or other water-craft; or any bridge, of the value of fifty dollars, erected across any of the waters of this Territory; such persons so offending shall be deemed guilty of arson, and upon conviction thereof, shall be punished by imprisonment in the penitentiary for a term not less than one year nor more than ten years; and should the life or lives of any person or persons be lost in consequence of any such burning as aforesaid, such offender shall be deemed guilty of murder, and shall be indicted and punished accordingly. (*Revised Statutes*, 1868, p. 204, § 53.)

8. Every person who shall willfully and maliciously set fire to any of the buildings or other property described in the foregoing section, with the intent to burn or destroy the same, shall be deemed guilty of a high misdemeanor, and upon conviction thereof, shall be imprisoned in the penitentiary for a term not exceeding two years, and be fined in a sum not exceeding one thousand dollars. (*Ibid*, § 54.)

### EMBEZZLEMENT.

9. Every servant, officer or person employed in any public department, station or office of the Government in this Territory, or

any county of this Territory, or in any office of a corporate body, who shall embezzle, steal, secrete, or fraudulently take and carry away any money, goods, chattels, effects, book or books of record or of account, bond or bonds, promissory note or notes, bank bills or notes, or any other writing or security for the payment of money or property of whatever description it may be, being the property of said Territory, county or corporate body, shall, on conviction, be punished by confinement in the penitentiary for a term not less than one year nor more than ten years. (*Revised Statutes*, 1868, p. 206, § 61.)

**10.** For General Provisions relating to Corporations see *Revised Statutes*, 1868, pp. 150-152.

## INSURANCE STATUTES OF DAKOTA TERRITORY.

**1.** No corporation created or organized under the laws of any other State or Territory shall be allowed to establish an office, and transact business within this Territory, or acquire, hold and dispose of property, real, personal or mixed, within the Territory of Dakota, until such corporation shall have filed in the office of the Secretary of the Territory of this Territory, a duly authenticated copy of its charter or articles of incorporation; *Provided*, That the provisions of this act shall not apply to corporations or associations created for religious or charitable purposes solely. (*Act approved January 15, 1875.*)

**2.** Such charter or articles of incorporation shall be recorded in a book to be kept by the Secretary of this Territory for that purpose. That said Secretary shall be entitled to charge a fee of one dollar for filing, and fifteen cents per folio for recording such charter or articles of incorporation. (*Ibid.*)

**3.** Such corporation shall appoint an agent, who shall reside at some accessible point in the Territory, in the vicinity of where the principal business of said corporation in this Territory shall be carried on, duly authorized to accept service of process, and upon whom service of process may be made in any action in which said corporation may be a party; and service upon such agent shall be taken and held as due service upon such corporation. A duly authenticated copy of the appointment or commission of such agent shall be filed in the office of the Secretary of this Territory. (*Ibid.*)

**4.** Corporations having complied with all the provisions of this act shall have the same rights and privileges, and be subject to the same rules and regulations as corporations created under and by virtue of the laws of this Territory; *Provided, however*, That no rights or franchises shall be acquired under this act except the right of ownership to real or personal property, which may not be affected by the amendment or repeal of this act. (*Ibid.*)

# INSURANCE STATUTES OF WASHINGTON TERRITORY.

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## FOREIGN CORPORATIONS.

**1.** All corporations now existing or hereafter formed under the laws of the States or other Territories of the United States, shall have full power and authority to sue and be sued, hold, purchase and acquire, sell, lease and dispose of real and personal property, and generally to do and perform any and every act, and transact business within this Territory, in the same manner and to the same extent as though said corporation had been organized under the laws of this Territory; *Provided*, That any such corporation hereafter acquiring property or commencing to transact business in the Territory, shall first comply with the provisions of section two of this act; *and Provided, further*, That all the real estate of such corporation within this Territory, and all the personal property of such corporation in this territory, including steamboats, all other vessels navigating the waters of said Territory, and all other personal property used in prosecuting the business of said corporation within this Territory, shall be liable to taxation in this Territory, any provisions in this act incorporating said company to the contrary notwithstanding. (*Act approved November 23, 1871, § 1.*)

**2.** Said corporation shall file or cause to be filed in the office of the Secretary of the Territory, an authenticated copy of its acts or articles of incorporation, and shall constitute and appoint an agent, who shall reside at the place in the Territory where the principal place of business of said corporation in the Territory shall be carried on, duly authorized to accept service of process, and upon whom service of process may be made in any action or suit pertaining to the property, business or transaction of said corporation within this Territory, in which said corporation may be a party, and shall file in the office of the Secretary of the Territory a duly executed appointment of such agent, naming his place of residence, and shall continually have and keep some resident agent so as aforesaid empowered; and service upon such agent shall be taken and held as due service on said corporation; *Provided, further*, That said agent, or his place of residence, may from time to time be changed upon filing a new appointment or notice of the change in the place of residence. (*Ibid*, § 2.)

**3.** Nothing in this act shall be so construed as to render void anything heretofore done by any corporation of any other Territory or a State of the United States, not inconsistent with the organic law of this Territory, but such acts and things shall remain valid as if the same had been done by corporations formed under the laws of this Territory. (*Ibid*, § 3.)

**4.** Any corporation incorporated under the laws of any State in the United States, or of any foreign country, State or colony, may acquire, hold, use and dispose of in the corporate name all real estate necessary or convenient to carry into effect the objects



of its incorporation, and the transaction of its business, and also any interest in real estate by mortgage or otherwise, as security for moneys due to, or loans made by such foreign corporation in this Territory, either prior to, or after the passage of this act; *Provided*, Such corporation shall file in the office of the Secretary of the Territory a certified copy of its charter, or certificate of incorporation. (*Act approved Nov. 5, 1875, § 1.*)

5. So much of section two (2) of the act entitled "an act in relation to foreign corporations holding property or doing business in this Territory," approved November 29th, 1871, as requires corporations to appoint an agent who shall reside in the Territory, shall not apply to corporations provided for in section (1) of this act. (*Ibid, § 2.*)

6. All corporations now existing or hereafter formed under the laws of other States and Territories for the conducting and transactions of marine, life, or fire insurance business with an authorized agent residing in and having an office in this Territory, shall have ample power to do and transact such insurance business within this Territory, not inconsistent with the organic act of this Territory, with ample power by their corporate name and style to enjoy all such rights not inconsistent with the organic act as aforesaid, and to maintain and defend the same in any court or place within this Territory as fully as though said companies were domestic corporations, incorporated by and in accordance with the laws of this Territory. (*Act approved Nov. 13, 1873, § 23.*)

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## INSURANCE STATUTES OF WYOMING TERRITORY.

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### FOREIGN CORPORATIONS.

1. Every incorporated company, incorporated under the laws of any foreign State or kingdom, or of any State or Territory of the United States, beyond the limits of this Territory, and now or hereafter doing business within this Territory, shall within thirty days after commencing so to do business, file in office of the Register of Deeds of the county within which its business is conducted, a copy of its charter of incorporation; or in case such company is incorporated by certificate under any general incorporation law, a copy of such certificate and of such general incorporation law, duly certified and authenticated by the proper authority of such foreign State, kingdom or territory. (*Laws of 1869, p. 264, § 1.*)

2. A failure to comply with the provisions of this article shall render each and every officer, agent and stockholder of any such corporation so failing herein, jointly and severally, personally liable on any and all contracts of such company, made or to be performed within this Territory. (*Ibid, § 2.*)

3. The several certificates, statutes and charters mentioned in section first of this article, shall be by the Register of Deeds filed

and preserved in his office, as a part of the records thereof; and he shall be entitled to receive a fee of one dollar for receiving and filing every such certificate and statute. Copies of such charters, statutes and certificates, duly certified by such Register of Deeds, under his seal of office, shall be received in all courts of this Territory as sufficient evidence of the existence and corporate character of such incorporations, and of all their powers, duties and liabilities, and the originals thereof, may in like manner be used in evidence of these matters with like effect. (*Ibid*, § 3.)

4. When the defendant is an incorporated insurance company, and the action is brought in a county in which there is an agency thereof, the service may be upon the chief officer of such agency. (*Laws of 1873, p. 33, § 63.*)

5. Insurance companies of every description, transacting business in this Territory, either by agents or other officers or persons, whether such company be incorporated or organized in this Territory or not, shall be assessed and taxed for territorial and county purposes in the same amount and at the same rate that all other property is taxed, upon the amount of the premiums taken by them during the year previous to the listing, in the county where the agent conducts that business, and the agent shall render the list, and shall be personally liable for the tax, and if he refuses to render the list, or to swear as herein required, the amount may be ascertained and assessed as provided in this act, in the case of railroads and other corporations. (*Laws of 1869, p. 346, § 15.*)

#### ARSON AND INCENDIARISM.

6. Every person who shall willfully and maliciously burn or cause to be burned any dwelling-house, kitchen, office, shop, barn, stable, store-house, warehouse, factory, mill, pottery or other building, the property of any other person, or any church, meeting-house, school-house, state-house, court-house, work-house, jail, or other public building; or any boat or other water-craft; or any bridge of the value of fifty dollars, erected across any of the waters of this Territory. Such persons so offending shall be deemed guilty of arson, and upon conviction thereof shall be punished by imprisonment in the penitentiary for a term not less than one year nor more than ten years; and should the life or lives of any person be lost in consequence of any such burning as aforesaid, such offender shall be deemed guilty of murder, and shall be indicted and punished accordingly. (*Laws of 1869, p. 107, § 36.*)

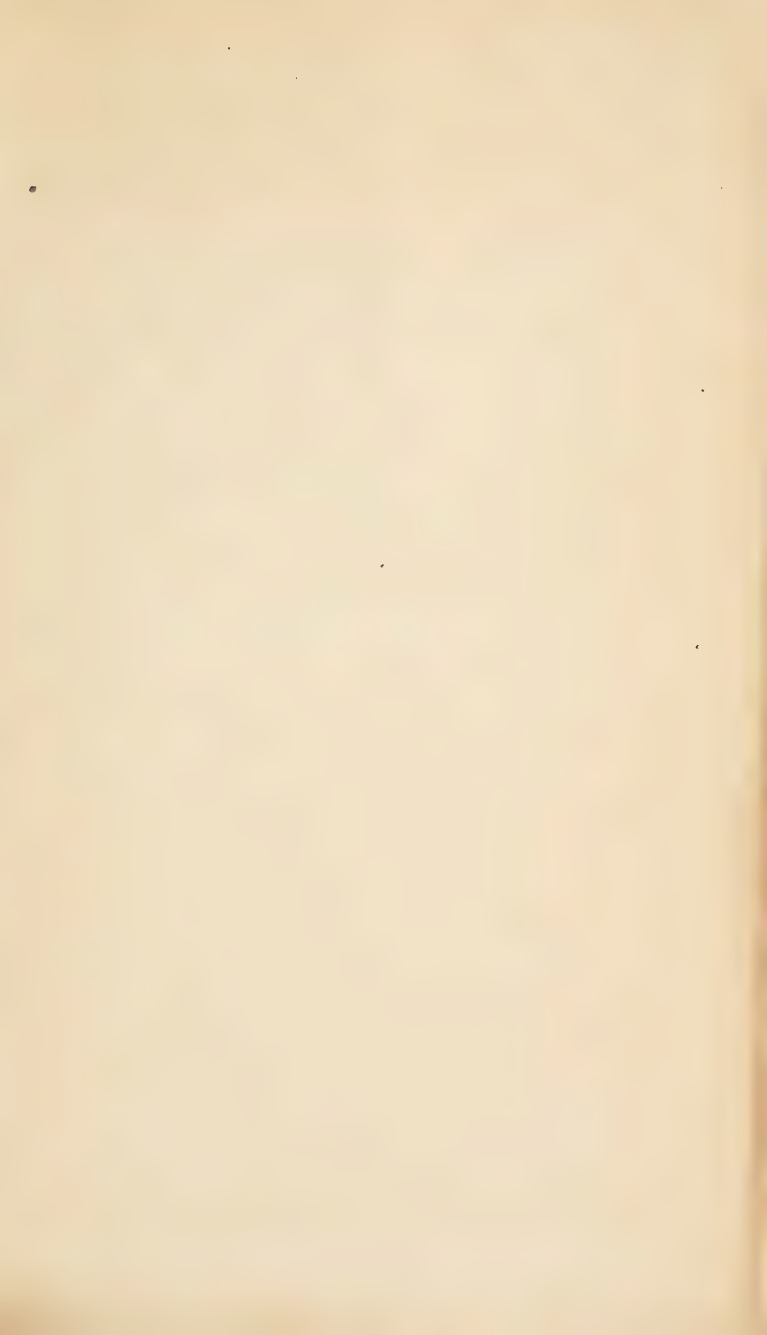
7. Every person who shall willfully and maliciously set fire to any of the buildings or other property described in the foregoing section with the intent to burn or destroy the same, shall be deemed guilty of a high misdemeanor, and upon conviction thereof shall be imprisoned in the penitentiary for a term not exceeding two years, and be fined in a sum not exceeding one thousand dollars. (*Ibid*, § 37.)

#### EMBEZZLEMENT.

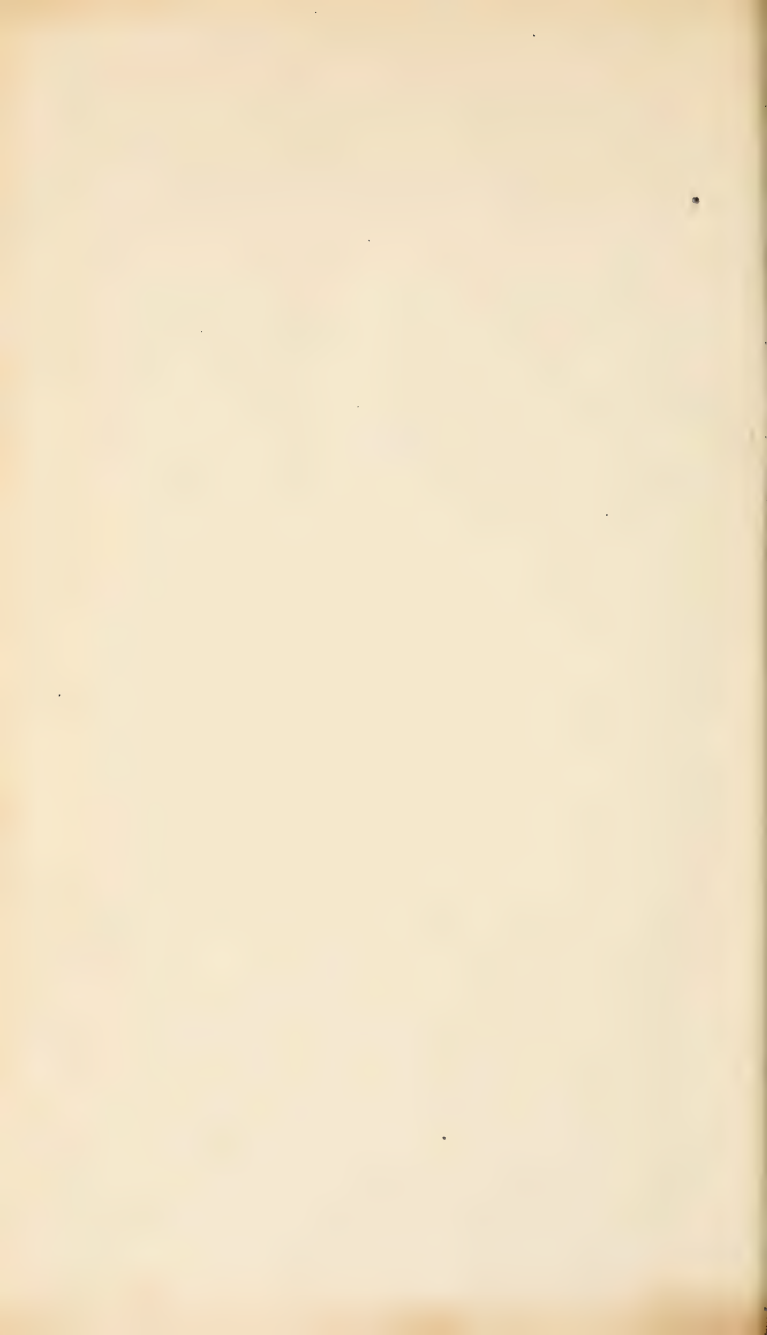
8. Every servant, officer or person employed in any office of a corporate body, who shall embezzle, steal, secrete or fraudulently take, carry away any money, goods, chattels, effects, book or books

of record or of account, bond or bonds, promissory note or notes, bank bills or notes, or any other writing or security for the payment of money or property of whatever description it may be, being the property of said corporate body, shall, on conviction, be punished by confinement in the penitentiary for a term not less than one year, nor more than two years. (*Laws of 1869, p. 110, § 46.*)













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